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A Collection of the Acts passed by the governor general of India in Council in the year 1863

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TITLES

OF

ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL,

IN THE YEAR 1863.

ACT No. I. AN ACT to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.

— II. to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations.

— III. to amend the law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

— IV. to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.

— V. to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army).

— VI. to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

— VII. relating to the Emigration of Native Laborers to the Danish Colony of Saint Croix.

— VIII. for the amendment of the law relating to the confinement of Prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of Prisoners convicted of offences in Native States.

— IX. to amend the Code of Civil Procedure.

— X. to improve the administration of Justice in the District of Darjeeling.

PRICE 3 ANNAS.

Act No.	XI.	An Act to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process.
—	XII.	to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations.
—	XIII.	to empower Judges of the High Court and other Authorities at Bombay to direct Convicts to be imprisoned either in the House of Correction or the Common Jail.
	XIV.	to amend Act X of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal).
—	XV.	to amend Act I of 1859 (for the amendment of the law relating to Merchant Seamen).
—	XVI.	to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.
	XVII.	to authorize the extension of the term of Office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore and Malacca.
	XVIII.	to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.
—	XIX.	to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal.
—	XX.	to enable the Government to divest itself of the management of Religious Endowments.
—	XXI.	to constitute Recorder's Courts for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah; and to establish Courts of Small Causes in the said Towns.

ACT No. XXII.	AN ACT to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken.
— XXIII.	to provide for the adjudication of claims to waste lands.
— XXIV.	to amend Act I of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.
— XXV.	to empower Judges of the High Court and other Authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction, or the Great Jail of Calcutta; and to authorize the transfer of prisoners, in certain cases, from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction.
— XXVI.	to amend Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859, to alter the Duties of Customs on Goods imported or exported by Sea).
— XXVII.	to further amend Act XXXII of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices), and to amend Act XXXIX of 1860 (to amend Act XXXII of 1860), and Act XVI of 1862 (to limit in certain cases the amount of assessment to the Duties chargeable after the 31st day of July 1862, under Act XXXII of 1860, and Act XXXIX of 1860, and otherwise to modify the said Acts.)
XXVIII.	to remove doubts as to the operation of Act X of 1862 (to consolidate and amend the law relating to Stamp Duties) in the Settlement of Prince of Wales' Island, Singapore, and Malacca, between the first day of November 1862, and the first day of January 1863; and respecting the rate of exchange for payment of Stamp Duties, in the Currency of India, in the said Settlement.
— XXIX.	to declare the receipts of the Banks of Bengal, Madras and Bombay, to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George and Bombay respectively.
— XXX.	to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh.

ACT No. XXXI. AN ACT to give effect to the publication of certain orders and other matters in the Gazette of India.

— XXXII. to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court).

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INDEX

TO THE

ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL,

FOR THE YEAR 1863.

	No. of Act.
A.	
Act XIV of 1836. Repeal of ——	VI.
—— XX of 1836 to cease to have effect in N. W. P.	XIX.
—— XXV of 1836. —— XVI of 1837. } Repeal of ——	VI.
—— XI of 1838 to cease to have effect in N. W. P.	XIX.
—— XIV of 1839. Repeal of —— in so far as it applies to Emigration to Saint Croix	VII.
—— V of 1840. Extension of —— to High Court	XVIII.
—— VI of 1841. —— XIII of 1841. } Repeal of ——	VI.
—— XIX of 1841. Extension of —— to British Burmah	I.
—— XXIII of 1841. Repeal of ——	VI.
—— XVIII of 1843. Repeal of ——	VIII.
—— XXV of 1843. Repeal of ——	VI.
—— VI of 1844. Repeal of Sections XVII to XLI and Sections XLVI to LXVIII of ——	*ib.*
—— XIV of 1845 to cease to have effect in N. W. P.	XI.
—— V of 1847. Repeal of ——	VIII.
—— VI of 1848. Repeal of Section III of ——	VI.

	No. of Act.
Act VII of 1848. — X of 1850. — I of 1852. — XXIX of 1855. } Repeal of —	*ib.*
— XXXI of 1855 as modified by Act XLIX of 1860 and — XIX of 1856 ... ... } Extension of — to emigration to Saint Croix.	VII.
— XXVII of 1856. Repeal of Section XIX of — ...	XVII.
— XL of 1858. Extension of — to British Burmah ...	I.
— I of 1859. Amendment of —	XV.
— VII of 1859. Repeal of —	VI.
— VIII of 1859. Amendment of —	IX.
— — —. Proceedings in Civil Courts in British Burmah to be regulated by —	I.
— X of 1859. Amendment of —	XIV.
— XIV of 1859. Extension of — to Pegu in British Burmah ...	I.
— XXII of 1859. Repeal of Section III of —	VI.
— X of 1860. Repeal of Sections III and IV of — ...	*ib.*
— XXIII of 1860. Repeal of Section II of —	*ib.*
— XXXII of 1860. — XXXIX of 1860. } Amendment of —	XXVII.
— XLVIII of 1860. Section III of — to cease to have effect in Straits' Settlement —	III.
— IX of 1861. Extension of — to British Burmah —	I.
— XXVIII of 1861. Repeal of —	XV.
— XXIX of 1861. Amendment of —	V.
— X of 1862. Removal of doubts as to operation of — in Straits' Settlement	XXVIII.

	No. of Act.
ACT XI OF 1862. Amendment of ——	XXVI.
—— XVI OF 1862. Amendment of ——	XXV
—— XVIII OF 1862. Repeal of Sections XLVII to LII of —— so far as they are applicable to or have effect in the Bengal Presidency	XXV.
—— XX OF 1862. Continuance in force of ——	XXXII.
—— I OF 1863. Amendment of ——	XXIV.
ADMINISTRATION OF JUSTICE in Darjeeling	X.
AKYAB, RANGOON, AND MOULMEIN. Recorders' and Small Cause Courts in ——	XXI.
APPEALS to Her Majesty in Council from judgments and orders in Non-Regulation Provinces ...	II.
——— to highest Civil Court of appeal in Non-Regulation Provinces	IX.
ARTICLES OF WAR FOR THE NATIVE ARMY. Act to amend certain enacted in Act XXIX of 1861	V.
B.	
BANKS OF BENGAL, MADRAS AND BOMBAY. Receipts of — declared sufficient in lieu of receipts of Sub-Treasurers	XXIX.
BENGAL CODE. Repeal of Regulations of ——. *See Regulations* .	
BOMBAY CODE: Repeal of Regulations of ——. *See Regulations* ...	
——— HIGH COURT. Judges of —— empowered to direct imprisonment of convicts either in House of Correction or Common Jail	XIII.
BURMAH. Act to give effect to Treaty between King of — and Governor-General of India	IV.
——— BRITISH. Act to define jurisdiction and regulate procedure of Civil Courts in ——	I.
——— Amendment of Act I of 1863 to define jurisdiction and regulate procedure of Civil Courts in —— ...	XXIV.
———. Proceedings in Civil Courts in —— to be regulated by Code of Civil Procedure	I.
——— Recorders' and Small Cause Courts in —— ...	XXI.

	No. of Act.
C.	
CIVIL PROCEDURE CODE. Amendment of —— ..	IX.
——————. Amendment of —— in respect of Process issued out of High Court, Calcutta	XVIII.
——————. Proceedings in Civil Courts in British Burmah to be regulated by ——	I.
CLAIMS against late Native Government of Oudh. Commission to inquire into ——	XXX.
——— to Waste Lands. Adjudication of ——	XXIII.
CODE, CIVIL, OF PEGU. Repeal of ——	I.
COMMISSIONERS to inquire into claims against late Native Government of Oudh. Appointment of ——	XXX.
——————— (Municipal) Straits' Settlement. Extension of term of Office of ——	XVII.
CONFINEMENT of Prisoners sentenced by Courts, acting under the authority of Her Majesty, &c., and of Prisoners convicted of offences in Native States	VIII.
CONSOLIDATED Customs Act	VI.
CONVICTS. Imprisonment of —— in House of Correction or Great Jail, Calcutta	XXV.
———. Imprisonment of —— either in House of Correction or Common Jail, Bombay	XIII.
COURTS, CIVIL, British Burmah. Act to define jurisdiction and regulate procedure of ——	I.
——————————. Amendment of Act I of 1863 to define jurisdiction and regulate procedure of —— ..	XXIV.
——————. Proceedings in —— to be regulated by Code of Civil procedure	I.
——— (N. W. P.) Employment and remuneration of Peons for service of Civil Process in —— .	XI.
———. Recorders' and Small Cause —— in Akyab, Rangoon, and Moulmein	XXI.
CUSTOMS DEPARTMENT, Act to amend laws relating to administration of ——	VI.
——— DUTIES. Amendment of Act XI of 1862 relating to —— ...	XXVI.

	No. of Act.
D.	
DARJEELING. Administration of justice in District of —— ..	X.
DUTIES (CUSTOMS'). Amendment of Act XI of 1862 relating to ——	XXVI.
——— on profits from property, &c., (Income Tax). Amendment of Acts relating to ———	XXVII.
DUTY (EXCISE) on Spirits used in Arts, &c —	XVI.
—— on goods imported into Rangoon from British or Foreign Territory limited in accordance with Treaty with King of Burmah.	IV.
E.	
EMIGRATION to Saint Croix	VII.
ENDOWMENTS. Government enabled to divest itself of the management of Religious ———	XX.
ESTATES paying revenue to Government, N. W. P. Partition of ———	XIX.
EXCISE DUTY on Spirits used in Arts, &c.	XVI.
F.	
FEES AND STAMP DUTIES IN HIGH COURT. Continuance of Act (XX of 1862) to provide for levy of ———	XXXII.
G.	
GAZETTE OF INDIA. Provision for publication of certain orders, &c., in ———	XXXI.
GREAT JAIL, CALCUTTA. High Court Judges empowered to direct convicts to be imprisoned in ——— or in House of Correction.	XXV.
H.	
HIGH COURT, BOMBAY. Judges of——empowered to direct imprisonment of convicts either in House of Correction or Common Jail	XIII.
———, CALCUTTA. Continuance of Act XX of 1862 to provide for levy of Fees and Stamp Duties in ——— ...	XXXII.

	No. of Act.
HIGH COURT, CALCUTTA. Judges of —— and others empowered to direct imprisonment of convicts either in House of Correction or Great Jail	XXV.
——————. Provision for speedy disposal of business in Office of Master of ——— for abolition of oaths administered to Hindoos and Mahomedans in ——— and amendment of Civil Procedure Court in respect of process issued out of ———	XVIII.
HINDOOS AND MAHOMEDANS. Abolition, in High Court, Calcutta, of oaths administered to ———	*ib.*
HOUSE OF CORRECTION, BOMBAY. Judges of High Court empowered to direct imprisonment of convicts in ——— or in Common Jail	XIII.
——————, CALCUTTA. Judges of High Court empowered to direct imprisonment of convicts in ——— or in Great Jail	XXV.
HUMEERPORE. Pergunnahs Mahoba and Jeitpore in ——— brought under General Regulations	XII.
I.	
INCOME TAX Acts (XXXII of 1860, XXXIX of 1860, and XVI of 1862). Amendment of ——	XXVII.
INDIA GAZETTE. Provision for publication in ——— of certain orders, &c.	XXXI.
J.	
JEITPORE AND MAHOBA, Pergunnahs in Humeerpore, brought under General Regulations	XII.
L.	
LAND. Taking of ——— for works of public utility to be constructed by private persons or Companies, and regulating construction and use of such works	XXII.

	No. of Act.
M.	
MAHOBA AND JEITPORE, Pergunnahs in Humeerpore, brought under General Regulations	XII.
MAHOMEDANS AND HINDOOS. Abolition in High Court, Calcutta, of oaths administered to ———	XVIII.
MASTER'S OFFICE, HIGH COURT, CALCUTTA. Provision for speedy disposal of business in ———	*ib.*
MERCHANT SEAMEN'S Act (I of 1859). Amendment of ——— ..	XV.
MOULMEIN, AKYAB, AND RANGOON. Recorders' and Small Cause Courts in ———	XXI.
MUNICIPAL COMMISSIONERS, STRAITS' SETTLEMENT. Extension of term of Office of ———	XVII.
N.	
NATIVE STATES. Confinement of Prisoners convicted of offences in ——	VIII.
NON-REGULATION PROVINCES. Appeals to Her Majesty from judgments and orders in ———	II.
NORTH-WESTERN PROVINCES. Employment and remuneration of Peons for service of Civil Process in Courts in ——— ...	XI.
———.———.———. Partition of estates in ——— ...	XIX.
O.	
OATHS TO HINDOOS AND MAHOMEDANS. Abolition of ——— in High Court, Calcutta	XVIII.
OUDH NATIVE GOVERNMENT. Appointment of Commissioners to inquire into claims against ———	XXX.
P.	
PARTITION OF ESTATES paying Revenue to Government (N. W. P.) ...	XIX.
PEGU CIVIL CODE. Repeal of ——	I.
PEONS. Employment and remuneration of ——— in the Courts of the N. W. P.	XI.

	No. of Act.
POLICE IN STRAITS' SETTLEMENT. Regulation of ———	III.
PRISONERS. Confinement of ——— sentenced by Courts acting under the authority of Her Majesty, &c., and of ——— convicted of offences in Native States ...	VIII.
PROCEDURE (CIVIL). Amendment of Code of ———	IX.
———. Amendment of Code of ——— in respect of Process issued out of High Court, Calcutta ...	XVIII.
———. Code of ——— to regulate proceedings in Civil Courts in British Burmah .. .	I.
———, of Courts in British Burmah ... , ...	*ib.*
———, ———. Amendment of Act I of 1863 relating to ———	XXIV.
PROCESS ISSUED OUT OF HIGH COURT, CALCUTTA. Amendment of Civil Procedure Code in respect of ———	XVIII.
PROVINCES, Non-Regulation. Appeals to Her Majesty in Council from judgments and orders in ———	II.
R.	
RANGOON, AKYAB, AND MOULMEIN. Recorders' and Small Cause Courts in ———	XXI.
RECEIPTS OF SECRETARIES OF BANKS OF BENGAL, MADRAS, AND BOMBAY declared sufficient in lieu of those of Sub-Treasurers	XXIX.
RECORDERS' AND SMALL CAUSE COURTS in Akyab, Rangoon, and Moulmein	XXI.
REGULATION (BENGAL CODE). IX of 1810. Repeal of ——— ...	VI.
———. XIX of 1810. Partial repeal of ——— ...	XX.
———. IX of 1811 } to cease to have effect in N. W. P. ... } ———. XI of 1811	XIX.
———. VI of 1814. Repeal of ——— ...	VI.
———. XIX of 1814 to cease to have effect in N. W. P.	XIX.
———. XXVI of 1814. Section XIV of ——— to cease to have effect in N. W. P.	XI.

	No. of Act.
REGULATION (BENGAL CODE). XXI of 1817 ——. XV of 1825 ——. XV of 1829 ——. III of 1830 } Repeal of —— ...	VI.
——. VII of 1832. Section V of —— to cease to have effect in N. W. P.	XI.
——. VI of 1833. Repeal of —— ...	VI.
REGULATION (BOMBAY CODE). XXII of 1827. Repeal of —— in part ——. II of 1829. Repeal of —— ...	V.
——. IX of 1833. Repeal of —— ...	VIII.
REGULATION (MADRAS CODE). VII of 1817. Partial repeal of —— ...	XX.
REGULATIONS, GENERAL. Pergunnahs of Mahoba and Jeitpore in Humeerpore brought under operation of —— ...	XII.
RELIGIOUS ENDOWMENTS. Government enabled to divest itself of management of ——	XX.
RENT Act (X of 1859) Amendment of ——	XIV.
REPEAL OF ACTS—*See Acts.*	
—— of Civil Code of Province of Pegu	I.
—— OF REGULATIONS—*See Regulation.*	
S.	
SAINT CROIX. Emigration to ——	VII.
SMALL CAUSE COURTS and Recorders' Courts in Akyab, Rangoon, and Moulmein	XXI.
SPIRITS USED IN ARTS, &c. Excise Duty on ——	XVI.
STAMP DUTIES. Continuance of Act XX of 1862 to provide for levy of —— in High Court	XXXII.

	No. of Act.
STAMP ACT (X OF 1862). Doubts as to operation of ——— in Strait's Settlement removed, and respecting rate of exchange for payment of	XXVIII.
——— DUTIES in Indian Currency in the	
STRAITS' SETTLEMENT.	
———. Extension of term of Office of Municipal Commissioners in ———	XVII.
———. Regulation of Police in ———	III.
SUB-TREASURERS OF CALCUTTA, MADRAS AND BOMBAY. Receipts of Banks of Bengal, Madras and Bombay declared sufficient in lieu of receipts of ———	XXIX.
SUMADH (burying alive). Custody of persons convicted of participation in ———	VIII.
SUTTEE (burning alive). Custody of persons convicted of participation in ———	*ib.*
T.	
TEMPORARY ACTS. To further amend Act XXXII of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices), and to amend Act XXXIX of 1860 (to amend Act XXXII of 1860), and Act XVI of 1862 (to limit in certain cases the amount of assessment to the Duties chargeable after the thirty-first day of July 1862, under Act XXXII of 1860, and Act XXXIX of 1860, and otherwise to modify the said Acts).	XXVII.
———. To provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh	XXX.
———. To continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court). ...	XXXII.

	No. of Act.
TREATY between King of Burmah and Governor-General of India. Act to give effect to ——	IV.
W.	
WASTE LANDS. Adjudication of claims to ——	XXIII.
WORKS of Public Utility. Taking land for —— and regulating construction and use of ——	XXII.

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ACT No. I of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 15th January 1863.)

An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.

Preamble.

WHEREAS it is expedient to define the limits of the jurisdiction of the Courts of Civil Judicature in British Burmah; and whereas it is also expedient that the Code of Civil Procedure should have effect throughout British Burmah subject to certain alterations and provisos, and that provision should be made for extending the operation of certain Acts to the said Territory; It is enacted as follows:—

Pegu Civil Code repealed.

I. The Code called the Civil Code of the Province of Pegu is hereby repealed.

Grades of Civil Courts in British Burmah.

II. There shall be six grades of Courts in British Burmah, which shall be in addition to any Recorders' Courts, Courts of Small Causes, or other Courts established under any Act which may be hereafter passed, namely:—

1. The Court of the Extra Assistant of the third class, or the Myooke's Court.

2. The Court of the Extra Assistant of the second class, or the Tseekay's Court.

3. The Court of the Assistant Commissioner, and the Court of the Extra Assistant of the first class.

4. The

PRICE 2 ANNAS 6 PIES.

4. The Court of the Deputy Commissioner.

5. The Court of the Commissioner, and

6. The Court of the Chief Commissioner.

Jurisdiction of Court of Extra Assistant of 3rd class, or Myooke's Court.

III. The Court of the Extra Assistant of the third class, or the Myooke's Court, shall have power to receive, try and determine suits of every description not exceeding 500 Rupees in value or amount.

Jurisdiction of Court of Extra Assistant of 2nd class, or Tseekay's Court.

IV. The Court of the Extra Assistant of the second class, or the Tseekay's Court, shall have power to receive, try and determine suits of every description not exceeding 3,000 Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner and of Court of Extra Assistant of 1st class.

V. The Court of the Assistant Commissioner and the Court of the Extra Assistant of the first class shall have power to receive, try and determine suits of every description not exceeding 5,000 Rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

VI. The Court of the Deputy Commissioner shall have power to receive, try and determine suits of every description exceeding 5,000 Rupees in value or amount, and appeals from the decisions and, where an appeal is allowed by the Code of Civil Procedure, from the orders of the Courts of the Extra Assistants of the third class or the Myookes' Courts, of the Courts of the Extra Assistants of the second class or the Tseekays' Courts, and of the Courts of the Assistant Commissioners and Extra Assistants of the first class, in the District of such Deputy Commissioner.

Jurisdiction of Court of Commissioner.

VII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions, and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the Deputy Commissioners in the Division of such Commissioner. The Commissioner may also receive a second appeal from the decisions of the Courts of the Deputy Commissioners in his Division passed in regular appeal reversing or modifying the decision of the Court of

of original jurisdiction, on a point material to the merits of the case, if on a perusal of the grounds of appeal and of the judgments of the Courts below, copies of which judgments shall be filed with the petition of appeal, a further consideration of the case shall appear to him to be requisite for the ends of justice. The decision of the Commissioner on such second appeal, whether, for confirming, modifying or reversing the decision of the lower Appellate Court, shall be final, and no special appeal shall be allowed in such case to the Chief Commissioner from the decision either of the Deputy Commissioner passed in regular appeal, or of the Commissioner of the Division passed on such second appeal. The rejection of an appeal by the Commissioner on a second appeal shall have the same effect as a confirmation of the decree of the lower Court.

Jurisdiction of Court of Chief Commissioner.

VIII. The Court of the Chief Commissioner shall, except as provided in the last preceding Section and in Section XVIII of this Act, have power to hear and determine special appeals from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Court in which suit to be instituted.

IX. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Transfer of suits.

X. It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same. And it shall be lawful for the Chief Commissioner or for the Commissioner of a Division to order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such Chief Commissioner or Commissioner, shall be transferred to any other Court subordinate to his authority and competent in respect of the value of the suit or appeal to try the same.

Suits for immoveable property situate in different Districts.

XI. If the suit be for land or other immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate

subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

XII. If the Districts within the limits of which the property is situate, are subject to different Commissioners, the application shall be submitted to the Commissioner to which the District, in which the suit is brought, is subject, and the Commissioner to which such application is made may, with the concurrence of the Commissioner to which the other District is subject, give authority to proceed with the suit.

Appeal to be from all decisions except when expressly prohibited.

XIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Memorandum of appeal to be presented to the Appellate Court within specified time.

XIV. The Memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure shall be presented in the Court empowered to hear the appeal, within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the Memorandum of appeal within such period, that is to say, within thirty days if the appeal lie to the Court of a Deputy Commissioner, and six weeks if the appeal lie to a Commissioner of a Division. The period shall be reckoned from and exclusive of the day on which the judgment appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeal is allowed by the Code of Civil Procedure or by this Act, shall be presented within the same period as appeals from decisions.

Deputy Commissioner and Commissioner may confirm decision of lower Court appealed from without summoning the respondent.

XV. In cases of appeal preferred to a Deputy Commissioner under Section VI, or to a Commissioner under Section VII of this Act, it shall not be necessary to summon the Respondent in the first instance, and if upon the perusal of the judgment of the Court below, of the whole or any part of the record of the original suit, and of the petition of appeal in the

the presence of the Appellant or of his duly constituted Agent, the Deputy Commissioner or the Commissioner, as the case may be, shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same recording his reasons for rejecting the appeal. In such case the Deputy Commissioner or the Commissioner shall cause the order for confirmation to be made known to the respondent through the Court from whose decision the appeal was made

Procedure as to second appeals.

XVI. Applications for a second appeal under Section VII of this Act shall be preferred in the manner and within the period prescribed in Section XIV for regular appeals to the Commissioner of a Division, and if the Commissioner shall see fit to admit any such second appeal, it shall be heard and determined in every respect as an ordinary regular appeal.

Applications for the admission of special appeals

XVII. Applications for the admission of a special appeal, which the Chief Commissioner is empowered by Section VIII of this Act to receive and determine, may be on any of the grounds specified in Section 372 of the Code of Civil Procedure. The application shall be presented within ninety days reckoned from and exclusive of the day on which the judgment of the lower Appellate Court was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against, unless the applicant shall show sufficient cause to the satisfaction of the Chief Commissioner for not having presented the application within such period. The application shall be subject to all the conditions, whether as regards Stamp duty, remission of a portion thereof when the application is made in *formâ pauperis*, or otherwise, contained in the said Code in cases of application for the admission of a special appeal to the Sudder Court.

No special appeal from decision of any Court in suits cognizable in Small Cause Courts.

XVIII. No special appeal shall lie from any decision or order which shall be passed in regular appeal by any Court after the passing of this Act, in any suit of the nature cognizable in Courts of Small Causes under Act XLII of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed the sum of five hundred Rupees.

XIX. If

Reference of question to the Chief Commissioner.

XIX. If in any case of regular appeal in which under the last preceding Section no special appeal is allowed, or in any case of second appeal admitted under Section VII of this Act, any question of law or usage having the force of law, or the construction of a document affecting the merits of the case shall arise, on which the Court trying the appeal shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the appeal, draw up a statement of the case, and submit such statement with its own opinion for the decision of the Chief Commissioner. The provisions contained in Sections 29 to 34 of Act XXIII of 1861 (*to amend Act VIII of 1859, for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*) shall be applicable to the statement so submitted, and the Chief Commissioner shall proceed in the case under the rules contained in the said Sections for the direction of the Sudder Court so far as the same are applicable.

Applications to appeal in *formâ pauperis*

XX. Applications to be allowed to appeal in *formâ pauperis* shall be written on Stamp paper of the value of one Rupee if the appeal lie to the Court of the Deputy Commissioner, and on Stamp paper of the value of two Rupees if the appeal be to the Court of the Commissioner or to the Court of the Chief Commissioner, and shall be presented in the Court competent to receive the same within the period prescribed by this Act for the presentation of appeals from decisions, or when the application is made to the Chief Commissioner within the period prescribed by this Act for the presentation of an application for the admission of a special appeal.

On what grounds review of judgment may be applied for.

XXI. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a superior Court, or by a decree passed in appeal from which no second or special appeal shall have been admitted, or by a decree of the Court of the Chief Commissioner from which either no appeal shall have been preferred to Her Majesty in Council, or an appeal having been preferred, no proceedings in the suit shall have been transmitted to Her Majesty in Council, and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good

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and sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Court which passed the decree. Such application shall be presented within the period of ninety days from the date of the decree sought to be reviewed, unless the applicant shall show good and sufficient reason for not presenting it within such period.

Time for presentation of application for review.

XXII. Act XIX of 1841 *(for the protection of moveable and immoveable property against wrongful possession in cases of successions)*, Act XL of 1858 *(for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal)*, and Act IX of 1861 *(to amend the law relating to Minors)* are hereby extended to British Burmah. All cases or proceedings arising under the said Acts or under Act XXXV of 1858 *(to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Court of Judicature)* or Act XXVII of 1860 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons)* shall be received and determined by the Deputy Commissioner of the District subject to the provisions in the said Acts contained respectively as to jurisdiction and otherwise. All orders passed by the Deputy Commissioners in such cases or proceedings shall be open to appeal to the Commissioner of the Division, provided that no such appeal shall be allowed unless it be presented within thirty days from the date of the order appealed against, or unless the party making the appeal can show good and sufficient cause to the satisfaction of the Commissioner for not presenting the appeal within such period. The order of the Commissioner on any such appeal shall be final

Extension of certain Acts to British Burmah

Trial of cases or proceedings under the above and other Acts

Appeal.

XXIII. Except as is in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in the Courts of Civil Judicature in British Burmah mentioned in Section II of this Act, shall be regulated by the said Code of Civil Procedure, and, except as otherwise provided by this Act or by any Law which may hereafter be passed, by no other Law or Regulation.

Procedure of Civil Courts in British Burmah to be regulated by Code of Civil Procedure.

XXIV.

XXIV. Act XIV of 1859 *(to provide for the limitation of suits)*, as amended by Act XIV of 1862, is hereby extended to the Province of Pegu, and shall take effect therein from the date on which this Act comes into operation in British Burmah in supersession of any law of limitation in force in the said Province. Provided that all suits pending in any of the Civil Courts in the said Province upon the date upon which this Act comes into operation in British Burmah shall, so far as regards the provisions in this Section contained, be tried and determined as if this Act had not been passed. Provided also that Clause 15 of Section I of the said Act XIV of 1859 shall not apply to any claim to foreclosure arising under any deed or instrument of mortgage of immoveable property in Pegu executed before the date aforesaid, but every such claim arising under any such deed or instrument shall, so far as the law of limitation is concerned, be governed by the laws or rules of limitation now in force in that province.

Act XIV of 1859 extended to Pegu.

XXV. Except as otherwise provided in this Act, the powers vested in the Sudder Court by the Code of Civil Procedure, shall be exercised in British Burmah by the Chief Commissioner.

Powers vested in Sudder Court to be exercised by the Chief Commissioner.

XXVI. Except as provided in Section XX of this Act, the Stamp Duties prescribed by Schedule B annexed to Act X of 1862 *(to consolidate and amend the law relating to Stamp Duties)* for Instruments and Writings in the Sudder Court and the Courts subordinate to the Sudder Court, shall be chargeable on Instruments and Writings in the Court of the Chief Commissioner and the several Courts subordinate to the Chief Commissioner.

Levy of Stamp Duties.

XXVII. The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purpose of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure.

Construction of District Court as used in Code of Civil Procedure.

XXVIII. This Act shall come into operation on the 1st day of May 1863.

Commencement of Act.

Printed at the Military Orphan Press.—R. No. 48.

ACT No. II of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 15th January 1863.)

An Act to regulate the admission of Appeals to Her Majesty in Council from certain Judgments and Orders in Provinces not subject to the General Regulations.

Preamble.

WHEREAS it is expedient to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations; It is enacted as follows :—

Admission of appeal.

I. If a party in a suit is desirous of preferring an appeal to Her Majesty in Council from any final judgment, decree, or order made on appeal or revision by the Court of highest Civil jurisdiction in any Province in British India not subject to the General Regulations, or from any such final judgment, decree or order made in the exercise of original jurisdiction by the said Court, in any case in which the sum or matter at issue is above the amount or value of 10,000 Rupees, or in which such judgment, decree, or order shall involve, directly or indirectly, any claim, demand; or question to or respecting property amounting to or of the value of 10,000 Rupees, or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said Court shall declare that the case is a fit one for appeal to Her Majesty in Council, such Court shall admit such appeal subject to such rules and orders as shall be in force, or shall from time to time be made in that behalf by Her Majesty in Council in respect of such appeals from Her Majesty's High Courts of Judicature in British India.

II.

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II. It shall furtherbe lawful for such Court, at its discretion, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, or order of such Court in any such proceeding as aforesaid (not being of Criminal jurisdiction), to grant permission to such party to appeal against the same to Her Majesty in Council, subject to such rules, regulations, and limitations, as shall be in force, or as shall from time to time be declared by Her Majesty respecting appeals from final judgments, decrees, and orders, of Her Majesty's said High Courts of Judicature.

Appeal from interlocutory judgments.

III. On the admission or permission of the appeal by the Court as hereinbefore provided, the Court shall forthwith cause notice to be given to the other party, that the Appellant has preferred an appeal to Her Majesty in Council.

Notice of appeal to the other party.

IV. The Court, if applied to, may either order the judgment or determination appealed against to be enforced, taking sufficient security for the performance of such order or decree as Her Majesty in Council may make on the appeal ; or it may direct, on similar security being found, that no order for enforcing the judgment or determination shall be issued pending the appeal, and that, if any such order has been issued, it shall, so far as it has not been executed, be suspended.

Court may either enforce judgment taking security, or suspend execution pending appeal.

V. In either of the cases mentioned in the last preceding Section, the Court shall require the Appellant to find security for the payment of such costs as it may think likely to be incurred by the appeal.

Appellant to find security for costs of appeal.

VI. If a party who is desirous of preferring an appeal to Her Majesty in Council in any of the cases mentioned in Section I or Section II of this Act, shall require the assistance of the said Court for obtaining security from the other party for staying execution of the judgment, decree, or order, that has been passed, or for any other purpose, he shall present his petition to the said Court within six calendar months from the date of the judgment, decree, or order appealed against.

Time for presentation of petition of appeal.

VII.

VII. If at any time pending an appeal under this Act, the security taken from either party appears inadequate, whether from the increase or improvement of the property forming the subject of appeal, or from the insufficiency of the securities, the Court before which the appeal is pending may, on the application of the other party, require further security.

If security be found inadequate, Court may require it to be increased.

VIII. In default of such further security being found, if the original security was furnished by the Appellant, the Court may issue an order for enforcing the judgment or determination appealed against as if no such original security had been given; and if the original security was furnished by the Respondent, the Court, so far as may be practicable, shall compel him to deliver up the property forming the subject of appeal, which shall be disposed of in conformity with such of the rules in force as may be applicable to the particular case.

If additional security be not furnished.

IX. In every case of appeal under this Act the Court shall certify and transmit to Her Majesty in Council under the seal of the Court, two true and correct copies of all evidence, proceedings, judgments, decrees, and orders had or made in the case appealed, so far as the same have relation to the matters of appeal, together with a copy of the reasons given by such Court for or against the judgment or determination appealed against.

Proceedings in the suit appealed to be forwarded to Her Majesty in Council.

X. The expense of preparing the two aforesaid copies, and of translating into English so much of the original documents as may not be in that language, shall be defrayed by the party prosecuting the appeal.

Expense of copying and translating papers in appeals to be paid by Appellants.

XI. The Court shall cause the deposit by the Appellant, within the time allowed for furnishing security for costs of appeal, of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, shall declare the appeal admitted, and give notice there of to the Appellant and Respondent respectively.

Court to require a deposit for such expense as a preliminary to admission of appeal.

XII. Either party, on application, may obtain one or more authenticated copies of any of the papers in the suit on paying the reasonable expenses incurred in preparing them.

Either party, on paying for the same, may obtain copy of any paper.

XIII.

XIII. Either party, in like manner, may obtain an authenticated copy of any local regulation or law which he may require in the appeal.

And of any local regulation or law.

XIV. The orders or decrees of Her Majesty in Council, when duly certified, shall be enforced and executed, under the directions of the said Court, by the Judge or Officer by whom the suit was originally tried, in the manner and according to the rules and laws applicable to the execution and enforcement of original orders or decrees made by such Judge or Officer.

Decrees of Her Majesty in Council how to be executed.

XV. Any party desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

Execution how to be obtained.

XVI. An appeal shall lie from any decree or order made by such last mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules, and regulations as an appeal from an order or decree made upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

Appeal from order of enforcement.

XVII. Nothing herein contained shall be construed so as to prevent the said Court of highest Civil jurisdiction from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court to enforce or execute the same.

Court of highest Civil jurisdiction may execute decrees by order of Her Majesty in Council.

XVIII. Nothing in this Act contained shall be understood to bar the full and unqualified exercise of Her Majesty's pleasure upon all appeals to Her, either in rejecting any she may consider, inadmissible or in receiving any she may judge admissible.

Saving of Her Majesty's power as to receiving or rejecting appeals.

XIX.

Interpretation of "British India."

XIX. The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

Printed at the Military Orphan Press.—R No 49.

ACT No. III of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 15th January 1863.)

An Act to amend the Law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

WHEREAS it is expedient to amend the law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca; It is enacted as follows:—

Section III of Act XLVIII of 1860 repealed.

I. Section III of Act XLVIII of 1860 (to amend Act XIII of 1856, for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca) shall cease to have any effect in any of the said Stations from the time when this Act shall come into operation, provided that nothing in this Section shall be held to revive the operation of Section XV of the said Act XIII of 1856.

Members of the Police Force to sign a declaration that they will serve for a certain period.

II. No person shall be enrolled a member of the Police Force in any of the said Stations, who shall not sign a declaration, in the form provided in the Schedule to this Act, that he will serve as a Member of such Force for such period, not exceeding five years, as shall be fixed by the Commissioner of Police of such Station acting under the Orders of the Governor of the said Settlement; and no person who shall have signed such declaration shall be at liberty to resign his Office,

Office, or to withdraw himself from the duties thereof, except with the permission of the Governor of the said Settlement, to be granted on a Certificate of ill health from a Medical Officer of Government, or on a special recommendation of such Commissioner of Police. Provided that nothing in this Section shall interfere with the power of such Commissioner of Police, under Section X of the said Act XIII of 1856, to suspend or dismiss any Member of the Police Force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Penalty for deserting or withdrawing service.

III. Every Member of the Police Force in any of the said Stations, who shall have signed the declaration hereinbefore mentioned, and who shall desert or withdraw himself from such Police Force, by absenting himself from duty without reasonable excuse for a period exceeding twenty-four hours, or otherwise, shall, on conviction before a Magistrate, forfeit all arrears of pay and allowances that may be due to him at the time of such desertion or withdrawal, and be liable to a fine not exceeding six months' pay and allowances, and on failure of payment thereof to imprisonment, with or without hard labour, for a period not exceeding one month if such fine be not sooner paid; or to imprisonment, with or without hard labor, for a period not exceeding three months; or to both fine and imprisonment.

Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.

IV. Whoever in any of the Stations of the Straits' Settlement has, or keeps, any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or place for the sale or consumption of Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating-house, Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license from the Commissioner of Police of such Station, shall be liable to a fine not exceeding twenty-five Dollars for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued; provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shop for medicinal purposes only.

V:

V. The Commissioner of Police in each of the said Stations shall, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid in the said Stations respectively, and upon such conditions, to be inserted in every such license, as he, with the sanction of the local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same, and the said licenses may be granted by the said Commissioner for any term not exceeding one year ; provided always, that it shall not be lawful for the said Commissioner to grant a license to open, or establish, or keep open, any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary, under the Abkaree or Excise Laws for the time being in force ; and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise Laws shall terminate or be recalled. And every holder of such license may be required by the Commissioner to fix, in a conspicuous part of the house or place specified in the license, a board, on which shall be legibly painted, in the English and Vernacular languages, the name of the holder, and the articles he is licensed to deal in. For every license granted under this Section there shall be levied a fee of one Dollar.

Licenses by Commissioner of Police for keeping Taverns and places of Public entertainment.

Licenses to be granted only to persons who have taken out the requisite Abkaree licenses.

Fees on licenses.

VI. A breach of the conditions of a license granted under the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not exceeding fifty Dollars, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Penalty for breach of license.

VII. This Act shall be read and taken as part of the said Act XIII of 1856, and shall come into operation on the 1st day of March 1863.

Construction of Act.

SCHEDULE.

ACT No. III OF 1863.

SCHEDULE.

FORM OF DECLARATION.

I,—A. B.— do hereby declare that, in consideration of my being enrolled a Member of the Police Force of I will serve in such Force for a period of years.

[Signed] A. B.

Witnesses

C. D.

E. F.

Printed at the Military Orphan Press.—R. No. 50.

ACT No. IV of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 29th January 1863.)

An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.

Preamble.

WHEREAS a Treaty has been negotiated between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Ava, and in the 4th and 8th Articles of the said Treaty it is stipulated and agreed as follows :—

Article 4th.—"When goods are imported into Rangoon from any British "or Foreign Territory, and declared to be for export by the Irrawaddy river "to the Burmese Territory, the English Ruler shall, provided bulk is not "broken, and he believes the Manifest to be true, charge one per cent on their "value, and if he so desires shall allow them to be conveyed under the charge "of an Officer until arrival at Maloon and Menhla. The Tariff value of goods "shall be forwarded yearly to the Burmese Ruler. If such goods are declared "for export to other territories and not for sale in the Burmese territories, the "Burmese Ruler shall, if he believes the Manifest to be true, not cause bulk to "be broken, and such goods shall be free of Duty.

Article 8th. "Should the British Ruler within one year after the conclu-"sion of this Treaty abolish the Duties now taken at Thayet Myo and Tounghoo, "the Burmese Ruler with a regard to the benefit of the people of his country "will, if so inclined, after one, two, three, or four years abolish the Duties now "taken at Maloon and Tounghoo (in the Burmese Territory.)"

And

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ACT No. IV of 1863.

And whereas it is necessary to give effect to the stipulations and engagements aforesaid by an Act to regulate the Duties of Customs at the Port of Rangoon and elsewhere in conformity to such stipulations and engagements; It is enacted as follows:—

Duty on goods imported into Rangoon from British or Foreign Territory limited to one per cent. *ad valorem*.

I. When any goods are imported into Rangoon from any British or Foreign Territory whether under bond or otherwise, and declared by the importer thereof to be for export by the Irrawaddy river to the Burmese Territory for sale therein, or for export through such territory for sale in other territories, such goods may be entered at the Custom House at Rangoon for such export and sale, and thereupon a duty of customs of one per cent. *ad valorem* and no more, shall be charged, provided that bulk of such goods is not broken, and the Officer in charge of the Custom House is satisfied of the truth of the entry of such goods in the Manifest of the Vessel wherein such goods are brought to Rangoon.

Conveyance of goods imported as above to Maloon and Menhla.

II. Whenever any goods are entered at the Custom House at Rangoon under the last preceding Section such goods may be conveyed to Maloon and Menhla under charge of an Officer to be appointed for the purpose, and the Officer so appointed to the charge of such goods shall be held to be a public servant within the meaning of Section 186 of the Indian Penal Code.

Governor-General may discontinue duties now taken at Thayet Myo and Tounghoo.

III. It shall be lawful for the Governor-General of India in Council by a Notification to be published in the *Calcutta Gazette*, to order the discontinuance of the Duties or any of them now levied at Thayet Myo and Tounghoo, and subsequently, if he shall see fit, by a like Notification to order that such Duties or any of them shall be revived and re-imposed, and any order made and published under this Section shall have the force of law.

Commencement of Act.

IV. This Act shall take effect from the time when the ratifications of the said Treaty are exchanged.

Printed at the Military Orphan Press.—R. No. 91.—31-1-63—1600.

BENGAL SECRETARIAT LIBRARY

ACT No. V OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 29th January 1863.)

An Act to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army.)

Preamble.

WHEREAS it is expedient to amend certain Articles of War enacted in the said Act XXIX of 1861; It is enacted as follows :—

Sections repealed.

1. Sections I to XVII, and Section XXVIII of Regulation XXII of the Bombay Code *(to declare and define Military Authority in its relations to the Civil Power and to the Community at large)* except Sections III and VII in so far as they regulate the jurisdiction, in small suits, of the Superintendents of Bazars; Chapter VI of the same Regulation; and Regulation II of 1829 of the Bombay Code *(for establishing Rules and Articles for the better government of the Native Officers and Sepoys in the service of the United Company of Merchants of England trading to the East Indies under the Presidency of Bombay)* are hereby repealed.

Repeal of Articles 3, 32, 73, 78, 82, 117, and 166.

II. The Articles of War, numbered respectively 3, 32, 73, 78, 82, 117, and 166 in the said Act XXIX of 1861, are hereby repealed, and in lieu thereof the following Articles of War shall be read and taken as Articles 3, 32, 73, 78, 82, 117, and 166 respectively, of the said Act XXIX of 1861.

ARTICLE 3.

Dismissal and discharge.

A Non-Commissioned Officer or Soldier shall be liable to dismissal or discharge by order of the Governor-General of India in Council, or of the Governor in Council, or the Commander-in-Chief

PRICE TWO ANNAS.

in-Chief of the Presidency to which he belongs; and the said Commander-in-Chief shall have power to reduce any Non-Commissioned Officer to the ranks.

Discharge and reduction by Commanding Officer.

The Commanding Officer of a Regiment or Corps shall have power to dismiss or discharge any Soldier below the rank of a Non-Commissioned Officer, and to dismiss, discharge, or reduce to the ranks any Non-Commissioned Officer belonging to such Regiment or Corps.

Every such dismissal or discharge shall involve forfeiture of claim to pension.

Proviso as to reduction and suspension.

No Non-Commissioned Officer shall be reduced to the ranks for any stated period, nor suspended from his rank, nor reduced from a higher to a lower grade of Non-Commissioned Officer.

Certificate of discharge.

Every Non-Commissioned Officer or Soldier discharged the service shall be furnished by the Commanding Officer of the Regiment or Corps to which he belonged with a discharged Certificate in the Vernacular language of such Non-Commissioned Officer or Soldier. Such certificate shall express the authority for, and cause of, the discharge, and the period of the entire service in the Army of such Non-Commissioned Officer or Soldier, and shall be accompanied with an English translation.

ARTICLE 32.

Defiling place of religious worship.

Who shall wantonly and intentionally defile any place dedicated to religious worship, or shall wantonly and intentionally insult the religious feelings of any person.

ARTICLE 73.

Powers of the Commander-in-Chief to appoint Courts Martial.

The Commander-in-Chief of the Presidency may appoint a General or other Court Martial, and may confirm, mitigate, or commute or remit the sentence of such Court. He may issue his Warrant to any General or other Officer under his command, having the command of any body of Troops in the Service of Her Majesty,

Majesty, empowering such Officer to appoint District or Garrison Courts Martial, as occasion may require, for the trial of any offence committed by any Officer, or Soldier, or Follower in the Service of Her Majesty, not being a European British subject of Her Majesty; and to confirm and mitigate, or commute or remit the sentence of any such Court Martial. No sentence, adjudging or involving forfeiture of additional pay, or of claim to pension on discharge, or of any prospective advantage, shall be carried into effect until sanctioned by the Commander-in-Chief of the Presidency to which the offender belongs. The Commander-in-Chief may remit any forfeiture awarded, and may order the restoration of any advantage of which the offender has been deprived by such forfeiture.

ARTICLE 78.

Death, transportation, or imprisonment.

A General Court Martial may sentence for any crime, which by these Articles is made liable to such sentence, any Officer to death or to transportation for life, or for any period not less than seven years, or in cases falling under Article 22 or Article 66, to imprisonment with or without hard labor for any period not exceeding three years, and with or without solitary confinement; or may sentence any Soldier to death, or to transportation for life, or for any period not less than seven years, or to imprisonment for any period not exceeding fourteen years, for any crimes which are by these Articles of War expressly made liable to any such sentence and for such crimes only. No Court Martial inferior to a General Court Martial shall have power to pass a sentence of death or transportation or imprisonment for any longer period than three years.

Punishment of Commissioned Officers.

Dismissal, suspension, or reduction to ranks.

A General Court Martial may sentence a Commissioned Officer to be dismissed the service; or to be suspended from rank and pay and allowances for a stated period; or to be placed one or more steps lower in the list of his rank, by an alteration of the date of the Commission, and such Officer shall lose the corresponding benefit of length of service

No Court Martial, inferior to a General Court Martial, shall have power to try a Commissioned Officer.

Punishment

Punishment of Non-Commissioned Officers and Soldiers.

Reduction to ranks, corporal punishment, imprisonment, or solitary confinement.

A General, or District, or Garrison, or Regimental Court Martial may sentence a Non-Commissioned Officer to be reduced to the ranks; or may sentence a Non-Commissioned Officer or Soldier to be dismissed the service, or to be placed one or more steps lower in the list of the rank which he holds, whereby such Non-Commissioned Officer or Soldier shall lose the benefit of the corresponding length of service; or to suffer corporal punishment not exceeding fifty lashes; or to imprisonment which may be with or without hard labor, and which may include solitary confinement for any portion or portions of such imprisonment, not exceeding fourteen days at a time, nor eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than such periods of solitary confinement.

No Soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more Courts Martial, or by order of the Commanding Officer of the Regiment or Corps to which such Soldier belongs.

No sentence of imprisonment shall be awardable by a General Court Martial for any period exceeding two years (except when otherwise expressly provided); nor by a District or Garrison Court Martial for any period exceeding one year; nor by a Regimental Court Martial for any period exceeding six calendar months.

No Non-Commissioned Officer shall be sentenced to imprisonment or corporal punishment without being first reduced to the ranks.

Punishment for "Disgraceful Conduct."

Forfeiture of pay or pension in addition to corporal punishment or imprisonment.

A General, or District, or Garrison Court Martial may, in addition to corporal punishment or to imprisonment, sentence a Soldier convicted of disgraceful conduct to forfeiture of all advantage as to additional pay and claim to pension on discharge, which otherwise might have accrued from the length

length or nature of his former service; or to forfeiture of such advantage absolutely, whether it may have accrued from past service, or might accrue from future service.

No Soldier shall be tried for disgraceful conduct by any Court Martial inferior to a District or Garrison Court Martial.

Forfeiture and stoppages in addition to dismissal.

A Court Martial may, in addition to any punishment involving dismissal or discharge, sentence any Officer or Soldier, whom it is authorized to try, to forfeiture of arrears of pay and allowances due at the time of dismissal or discharge, or of such portion thereof as may be required to make good any loss or damage arising out of his misconduct. A Court Martial, in addition to any punishment not involving dismissal or discharge, may sentence any Officer or Soldier to be put under stoppages not exceeding, in the case of an Officer two-thirds of his pay and allowances, and in the case of a Non-Commissioned Officer or Soldier one-half of his pay and allowances until any loss or damage arising out of his misconduct be made good.

Forfeiture of pay during confinement.

Every Soldier subjected to confinement in the Quarter Guard or Defaulter's Room, or in a Solitary Cell, or in any other place of imprisonment, whether as a punishment by his Commanding Officer or on a charge of which he shall be afterwards convicted by Court Martial shall forfeit all claim to pay and allowances during such confinement, and shall be entitled to receive subsistence only according to the rates laid down in the Regulations.

ARTICLE 82.

Powers of Officers Commanding Detachments in punishing offences.

An Officer Commanding a Detachment of his own Regiment or Corps may assemble a Regimental Detachment Court Martial; and an Officer Commanding a Detachment consisting of men of different Regiments or Corps, may assemble a Detachment or Line Court Martial. Every Court so assembled shall be constituted in the manner provided for a Regimental Court Martial under the provisions of these Articles of War, and shall have the like powers.

The

The provisions of these Articles of War which relate to a Court Martial held in a Regiment or Corps shall, in all practicable cases, be taken to apply to a Court Martial held in a Detachment.

No Officer on detached command of less than three Troops or Companies, or of a Detachment not numerically equal to three Troops or Companies, and not being on the line of march or on board a ship or other vessel, shall carry into effect any punishment awarded by a Court Martial held by his order, until the sentence shall have been confirmed by the Officer Commanding the Regiment or Corps to which the offender belongs, or by the nearest Superior Officer holding a command of not less than a Regiment, who is hereby authorized to confirm every such sentence in like manner as an Officer Commanding a Regiment or Corps might do. Provided that in detached situations beyond the Sea, or out of the British Territories in India, or when on service in the field, or in cases where an immediate example is necessary, and reference cannot be made to such Commanding or Superior Officer without detriment to the service, the Officer Commanding such Detachment may exercise the powers relating to Courts Martial which are vested in an Officer Commanding a Regiment or Corps.

Clause 2.

The Commanding Officer of any Detachment of not less than three Troops or Companies, or of any Detachment numerically equal to or greater than three Troops or Companies; and the Commanding Officer of any European Detachment to which native details are attached (of whatever strength or number such European Detachments, or such native details may be); and any Commissary of Ordnance being a Commissioned Officer or other Commissioned Officer in charge of any Arsenal, Ordnance Establishment, or any Camp Equipage Depôt, may summarily try any offence against these Articles of War, committed by any person under his command or who is subject to such Articles (not being a Commissioned Officer); and may on conviction sentence such offender and carry out such sentence without confirmation or any further authority; provided that such sentence shall not exceed the powers of a Regimental Court Martial.

In detached situations beyond the Sea, or out of the British Territories in India, or when on service in the field, or in cases where an immediate example is necessary, and a Court Martial cannot be convened under Clause 1 of this Article without detriment to the service, and reference cannot be made without such

such detriment to the Officer Commanding the Regiment or Corps to which the offender belongs, or to any other Superior Officer holding a command not less than that of a Regiment, the Officer Commanding any Detachment though of less than three Troops or Companies or not numerically equal to three Troops or Companies, may exercise the powers, of summary trial, of sentencing the offender, and of carrying out such sentence, which might have been exercised by the Officer Commanding the Regiment or Corps to which the offender belongs. Provided that, if reference can be made to any other Superior Officer holding a command not less than that of a Regiment, such reference shall be made, and such Officer thereupon shall have authority summarily to try, and in case of conviction to sentence the offender, and to carry out such sentence as if the offender had been under his command.

Any Commanding Officer or other Officer holding a trial under this Article shall be deemed a Court Martial, and the words "Court Martial" in these Articles of War, shall be deemed to include such Commanding Officer or other Officer holding a trial.

The proceedings of such summary trial shall be conducted, so far as may be practicable, and shall be recorded in the same manner as is provided in Article 81 for summary trials by an Officer Commanding a Regiment or Corps, and shall, in like manner, be signed and forwarded to the Officer Commanding the Division within which such Detachment shall be at the time, who is hereby authorized to set aside the trial for the same reasons that an Officer Commanding a Division is authorized by Article 81 to set aside a trial by an Officer Commanding a Regiment or Corps. Provided that every sentence so awarded by an Officer Commanding any such Detachment or by any other Officer holding a trial under this Article may be carried out without waiting for its approval by the Reviewing Officer.

ARTICLE 117.

No person who shall have been acquitted or convicted by a Court Martial of any offence, shall be liable to be tried a second time by the same or any other Court Martial for the same offence. Provided that any person may be tried for the offence of murder, and punished for that offence, notwithstanding

No person to be tried a second time for the same offence.

standing he may have been tried and punished for the act which caused death, if at the time of his conviction for the said act death shall not have resulted, or shall not have been known by the Court which passed sentence to have resulted.

When any person subject to these Articles of War shall have been found guilty by a Court Martial of any Military offence, such Court Martial shall enquire into and receive evidence of any previous conviction of such person before a Court Martial or a Court of Justice, and shall enquire into the general character of such person, if a Soldier, for the purpose of apportioning the punishment to which he is liable to be sentenced for the offence of which he has been so found guilty. And it shall not be necessary to give any notice to such person, previously to his trial, that such evidence will be received.

ARTICLE 166.

Regulations respecting Bazar and Cantonment Police, and Punchayets, declared in force.

The Regulations by which in any Presidency the Office and powers of Commissariat Officers, or Officers in charge of the Police in any Cantonments, or Superintendents of Military Bazars, are at present defined and controlled; or by which Punchayets are constituted and guided, shall continue to be in full force, and to be observed at the several Presidencies respectively.

III. The following additional Clause shall be read as the second paragraph of Article 103 of the said Act XXIX of 1861.

Every witness during attendance on a Court Martial, and during the time necessary for going and returning, shall be privileged from arrest in any Civil proceeding, and if arrested in any such proceeding, may be discharged by order of such Court Martial.

Construction.

IV. This Act shall be read and taken as part of the said Act XXIX of 1861.

Printed at the Military Orphan Press.—R. No. 92.—4-2-63.—1,600.

Consolidated Customs Act.

ARRANGEMENT OF SECTIONS.

SECTION.

1. Title.
2. Laws repealed.
3. Interpretation.

GENERAL RULES.

4. Making, issuing, and publishing of Rules.
5. Also rules respecting passengers' baggage and mails.
6. Appeals how and by whom to be adjudicated.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &C.

7. Local Government to appoint the necessary Officers.
8. Local Government may delegate its powers to other Customs authority. Subordinate Officers liable to be suspended or dismissed by the authority appointing them.
9. The Collector of Revenue of District to perform duties of Customs Officer, where there is no separate Customs Officer.
10. Local Government may from time to time appoint Ports and Wharves for shipment and landing, and may alter, &c.
    Existing Ports and Wharves to continue in use until otherwise ordered.
11. Governor-General in Council may declare Free Ports.
12. Governor-General may declare that an Indian Port, not in British India, shall be regarded as a British Indian Port for certain purposes.
13. Penalty for landing or shipping goods at unauthorized Port, &c.
14. Local Government may declare Warehousing Ports and places.
    Existing Ports to continue in use until otherwise declared.
15. Approval, appointment, and licensing of Warehouses.
    Existing Warehouses to continue in use until otherwise ordered.

LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES.

16. Import Customs.
17. Export Customs.
18. No Duties on goods carried from one Indian Port to another not a free Port.
    Proviso as to Opium, Salt, and Spirits.

SECTION.

19. Local Government may, in certain cases, authorize exemption from payment of Duty.
20. Baggage in actual use.

GENERAL PROVISIONS.

21. Prohibitions and restrictions.
22. Importation without License of arms and ammunition prohibited.
Proviso.
23. Governor-General may prohibit or restrict importation or exportation of goods.
24. Goods imported or exported, contrary to prohibition, liable to confiscation, and persons concerned to penalty.
25. Importation, exportation, and warehousing.
26. Owner, &c., to declare real value of goods in bill of entry or clearance, and if necessary, to produce invoice, &c.
27. Under-valued goods how to be dealt with.
28. Goods brought to be passed through the Custom House liable to confiscation in case of discrepancy, mis-description, &c.
29. Date of Importation how to be determined.
30. Date of Exportation how to be determined.
31. Re-imported articles of Country Produce to be deemed Foreign.
Proviso.
32. Stations may be appointed for Customs Officers to board and also land from ship.
Penalty for infraction.

IMPORTATION.

33. Places may be fixed by the local Government, beyond which inward bound vessels are not to proceed until a Manifest has been delivered.
34. On failure, Master to be liable to penalty.
35. Penalty for failure to report when vessel anchors below reporting Station, or to deliver a Manifest of the cargo.
36. Penalty for not delivering Report or Manifest within 24 hours after anchoring.
37. Penalty for Pilot, &c., not receiving Report or Manifest.
38. Penalty for vessel removing from place of mooring or unlading without due authority.
39. Stations may be appointed for Officers of Customs to board vessels arriving from Foreign ports.
40. Penalty for not bringing to at boarding Station.
41. Officer in charge of Custom House may depute Officers of Customs to board ships.
Proviso.
42. Penalty for refusing to receive Officer of Customs on board.

SECTION.

43. Servant to be received with Officer.
Accommodation of Officer and servant.
Penalty.
44. Officers of Customs to have free access to every part of the ship, and may seal and secure goods.
Officer in Charge of Custom House may authorize search and opening of locks.
Goods found concealed liable to confiscation.
45. Penalty for Masters resisting search, &c.
46. Bulk not to be broken until Manifest, &c. delivered and ship entered at Custom House.
47. Master, if required, to deliver Bill of Lading, &c., to Officer in charge of Custom House.
Penalty for false entry, fraudulent alteration, &c.
48. Goods not to leave ship unless entered in Manifest. Goods not agreeing in description and quantity with entry in Manifest liable to confiscation, or extra duty.
49. Penalty for not being able to account for missing or deficient package, &c.
50. Amendment of obvious errors, &c.
51. Period to be allowed for landing Import Cargo.
Consequence of exceeding same.
52. Procedure in respect of goods not landed within time allowed.
53. And in case of goods being landed in time, with exception of only a small quantity.
54. Effect of not discharging Cargo in any earlier period specified in the Bill of Lading.
55. Goods may be landed at any time after arrival, with consent.
56. Procedure in case of non-payment of Duties within four months after entry of vessel.
57. Goods not cleared within two months from the date of landing, to be sold.
Disposal of proceeds.
58. Goods not to be landed on Sundays, Holidays, &c., without permission, nor except within fixed hours, &c.
Penalty.
59. Goods removed from ship to be forthwith landed. Otherwise liable to confiscation.
60. Goods landed at any other than appointed Wharf or place liable to confiscation.
61. Goods landed without a boat-note liable to confiscation, and person in fault to penalty.
62. Entry for home consumption.
63. Penalty for goods being delivered without entry.
Proviso as to passengers' baggage.
64. Penalty for goods being removed after landing and before due entry.
65. Claims to abatement of duty on account of damage how to be treated.

SECTION.

66. Disposal of damaged goods and levy of Duty thereon.
67. Goods derelict and wreck to be treated as Foreign goods.
68. Officer in charge of Custom House may require goods to be weighed or measured on board before landing.
69. No Duty on portion of import cargo intended for another Port, ship's stores, &c.

WAREHOUSING.

70. Deposit of goods in warehouse without payment of duty.
71. Public warehouses.
Responsibility of Keeper.
72. Chief Customs Authority to decide what goods may be deposited in public warehouse, and on what terms.
73. Chief Officer of Customs may license private warehouses at any warehousing Port or place.
74. Form of application for license for private warehouses.
75. Form of application for the admission of goods into warehouse.
76. No goods to be warehoused without payment of Duty unless assessed for Customs Duty.
Public Warehouse-keeper, or license holder of private warehouse, to be answerable for weight or gauge.
Saving of the re-assessment of warehoused goods on clearance for home consumption.
77. Bond under what circumstances to be taken. Form and conditions of bond.
78. Terms of bond to be executed.
79. Period for which goods may remain warehoused under bond.
80. Penalty for improper carrying into warehouse.
81. Procedure in respect of goods to be warehoused.
Proviso as to confiscation.
82. Penalty for mis-description of goods.
83. Packages, &c., to be marked and numbered before admission into warehouse.
Proviso as to confiscation.
84. Penalty for neglecting to stow goods properly in warehouse.
85. Or for neglecting to produce goods when required.
86. Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.
87. Officer in charge of Custom House may cause packages lodged in warehouse to be opened and examined.
88. Penalty for holder of license of private warehouse refusing access to Customs Officers.
89. When bond shall become due, for Duty on goods in private warehouse deprived of license.
90. Owners to have access to warehoused goods attended by an Officer of Customs during business hours.

SECTION.

91. Penalty for importer or owner of warehoused goods clandestinely gaining access.
92. Goods in warehouse may be sorted, re-packed, &c., by owner, &c.
93. Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.
94. Chief Customs Authority may remit Duties on warehoused goods lost or destroyed, and if goods are damaged, Duty to be levied on actual value.
95. Import Duty to be on the quantity or value registered at time of importation. Proviso as to Wines, Spirits, Beer, or Salt.
96. Penalty for deficiencies in private Ware-house, if beyond ullage and wastage allowed.
97. Penalty for excess in private Ware-house over registered quantity.
98. Goods not to be removed from warehouse, except after application to the Officer in charge of the Custom House.
99. Form of application for removal of goods. Twenty-four hours' notice to be given.
100. Penalty if goods be taken out of warehouse without entry.
101. Expenses of carriage, packing, &c., to be borne by owners.
102. Payment of rent and warehouse dues. In case of failure goods may be sold, &c. Disposal of proceeds.
103. On goods being removed otherwise than for export, &c., full Duty to be paid.
104. On failure to pay Duty, Officer in charge of Custom House may proceed against goods or under the bond; and may detain goods and sell after ten days if demand not paid.
Disposal of proceeds.
105. Goods may be removed from one warehouse to another, application being made according to prescribed form.
106. Bonded goods may be removed from one Port to another.
Procedure.
107. Officers at Port of removal to transmit account of goods to Officers at Port of destination. Owner to execute bond for due arrival, &c.
108. Remover may enter into a general bond.
109. Goods on arrival at Port of destination to be subject to same Laws as goods on first importation.
110. Goods brought into one Indian Port, but intended for another Indian Port, may be trans-shipped without payment of Duty on security being given.
111. On arrival at destination, of goods removed under Section CX., they may, after formal re-warehousing, be entered for exportation or home use on payment of Duties.
112. Removal of goods to be noted on the bond, with particulars.
113. A register of bonds to be kept. When the bonds are to be cancelled and returned to the obligee.
114. Duty on ware-housed goods to be settled within three years.
115. Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

EXPORTATION.

SECTION.

116. Permission for entry outwards to be obtained before export cargo is put on board.
Penalty.

117. Period allowed for the shipment of export cargo.
Consequence of exceeding same.
Penalty for lading in the absence of Customs Officer.

118. Goods not to be shipped except on proper days and places, nor until entry and clearance.
Penalty for contravention.

119. Customs Officer may open package and examine goods shipped.

120. Officer in charge of Custom House may send Officers of Customs on board of any vessel clearing from Port.
And may allow shipment without presence of Officer.

121. Penalty for refusal to receive on board a deputed Officer of Customs.

122. One servant to be received on board with each Officer of Customs.
Accommodation of Officer, &c.
Penalty.

123. Exporter to deliver shipping bill before shipping any goods.

124. On entry outwards bond-note to be given for the shipping and landing.

125. Boat-note.
Penalty for non-delivery of boat-note.

126. No vessel to depart without a Port-clearance.
Penalties.

127. No Pilot to take charge of any vessel proceeding to Sea, without production of Port-clearance.
Penalty.

128. The Master of a vessel, on applying for Port-clearance, to deliver a Manifest and certificates.

129. Port-clearance may be refused unless all documents are delivered and charges paid.

130. Certain goods, if entered in Manifest, and not shipped, liable to confiscation.
Penalty for shipment of goods not in Manifest, &c.

131. Additional charge on goods passed for shipment after Port-clearance has been granted.

132. Duty on goods not shipped or re-landed may be returned on application.
Proviso.

133. Stations may be appointed at which outward bound vessels shall bring to, to land Officers of Customs.

134. Penalties in case of vessels not bringing to at prescribed Stations.

135. Goods re-landed from a vessel returning to Port, or putting into another Port, how to be dealt with.

SECTION.

136. Vessel returning to Port may enter and land goods under import rules.
Penalty for deficiency.

DRAWBACK.

137. Amount of drawback allowable on re-export.
Conditions for grant of drawback.
138. Time to claim and demand payment of drawback.
139. Drawback not allowed on goods of value less than amount claimed.—Such goods liable to confiscation.
140. No drawback on goods not entered in export Manifest.
141. No drawback allowed except on goods exported out of India.
Proviso.
142. Declaration to be made by parties claiming drawback.
143. Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.
144. Drawback of Duties on Wine allowed for Officers of the Navy.
145. Persons entering such Wine for drawback to declare the name and rank of Officer claiming the same.
146. Transfer of Wine from one Naval Officer to another, &c.
147. Wine not laden, or unladen without permission, liable to confiscation.
148. Provisions and Stores for Her Majesty's Navy exempt from duty.

COASTING TRADE.

149. No Duties on goods carried in Coasting vessel.
Proviso.
150. No drawback for goods shipped in a Coasting vessel.
151. Local Government may regulate carriage of goods coast-wise.
Penalty for contravention.
152. Times and places for shipping of goods.
Penalty for contravention.
153. Rules respecting Cargo-book to be kept by Masters of Coasting vessels.
Penalty for breach of rules.
154. Coasting vessels to deliver account, and obtain Port-clearance, before leaving Port of Lading.
Penalty in case of account being false.
155. Officer in charge of Custom House may require a bond before Port-clearance is granted.
Penalty for failure to produce certificate.
156. Grant and revocation of general pass.
157. Time for delivery of pass, and penalty for failure.

SECTION.

158. Goods on Coasting vessel, if excisable, not to be unladen without due permission.

159. Penalty for breach in respect of lading, carrying coastwise, and unlading.

160. Customs Officers may go on board, and examine any Coasting vessel.
Penalty for refusal to produce documents.

CARGO BOATS.

161. Local Government may prohibit plying of unlicensed Cargo Boats.
Goods found in unlicensed Cargo Boats may be confiscated.

162. Issue of Licenses.

SPIRITS.

163. Rules for removal of Spirits from Distillery without payment of Duty, and for exportation thereof.

164. Spirits for export to be taken direct from Distillery to Custom House under pass.

165. Rules to be observed in the exportation of Spirits.

166. Duty to be recovered on any deficiency in Spirits under Bond.

167. Drawback of Excise Duty on Spirits manufactured after the English method.

168. No drawback allowed on Spirits exported to Indian Ports not being free Ports, but such Spirits may be exported under Bond.

169. Duty on Spirits exported from one Indian Port to another, how to be adjusted.

170. Rum Shrub, &c., how to be charged with Duty.
May be exported under the same rules as Spirits.

171. Spirits intended for exportation may be removed for local consumption.

172. Conditions of drawback and remission of Duty on Spirits.
Re-land of Spirits shipped.

173. Penalty for irregularly, re-landing Spirituous Liquors.

AGENTS.

174. Agents must be duly authorized.
Penalty for acting without authority.

175. Agent to produce authority if required.

DUPLICATE BILLS OF ENTRY, &C.

176. Importer or exporter to deliver a duplicate of the Bill of entry, or shipping bill, if required.

177. Penalty for non-compliance with the foregoing provision.

TAKING OF SAMPLES.

178 Officer in charge of Custom House may take samples of goods.

SECTION.

MISCELLANEOUS PROVISIONS.

179. Local Government may, with sanction, fix value of *ad valorem* articles.
180. Assessment of goods liable to Duty according to value.
181. Expense of piling &c. timber chargeable by measurement by whom to be borne. No allowance for interstices.
182. Trans-shipment of stores from one vessel to another of the same owner without payment of Duty.
183. Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports, may be exported, Duty-free, on certain conditions.
184. In case of dispute, the Duty to be deposited, pending orders of Chief Customs authority.
185. Payment of Duties short levied or erroneously refunded.
186. No refund of charges erroneously levied or paid, unless application be made within six months.
187. Importer and exporter to pay expense incidental to compliance with Custom House rules.
188. No compensation for loss or injury except on proof of wilful neglect.
189. Rates of Wharfage fees to be fixed by the Chief Customs Authority.
190. Saving of anchorage and harbour dues, also special dues on opium, tobacco, ganja, spirits, and salt.
191. Duplicates may be granted and amendments made on payment of fee.
192. Customs Officers may be exempted from service on any jury or inquest.

OFFENCES AND PENALTIES.

193. Penalty for Commanders of Tug-steamers, or Pilot-vessels receiving or discharging any goods without due authority.
194. Penalty for shipping, landing, concealing, &c., contrary to Act.
195. Vessels in Port with a cargo, and afterwards found in ballast, and cargo unaccounted for, liable to confiscation.
196. Tackle, &c. and packages and contents included in confiscation of vessels and goods. Also conveyances used in removal.
197. Goods may be detained, and Port-clearance refused pending the payment of fines incurred.
198. Persons reasonably suspected may be detained.
199. Vessels, goods, and persons may be seized or detained.
200. Vessels and goods seized how to be dealt with.
201. Persons detained to be taken to nearest Magistrate or Officer of Custom House.
202. Persons taken before a Justice for offence under Customs Acts may be detained or admitted to bail.
203. Any person escaping may be afterwards detained.
204. Persons in Her Majesty's Navy when detained, to be secured on board until warrant procured.

SECTION.

205. When seizure is made, seizing Officer to give reason in writing.
206. Procedure in respect of goods seized on suspicion.
Penalty for neglect of Police Officer to give notice.
207. Officers of Customs may stop Carts, &c., and search for goods on reasonable suspicion.
208. Magistrate of District may issue search warrant on application.
209. Persons may be searched, on reasonable suspicion.
Penalty for possession of smuggled goods.
210. Persons before search may require to be taken before a Magistrate, &c.
211. Penalty for searching persons on insufficient grounds.
212. Customs Officers, if guilty of breach of duty, how punishable.
213. Customs Officers committing or conniving at frauds, how punishable.
214. No suit or proceeding to be commenced without notice, or after stated interval.
215. Punishment for obstruction to Customs Officers.
216. Penalty for making false declaration, refusing to answer questions, &c.
217. Penalty for unauthorized declaration to value of goods.
218. Officer in charge of Custom House may adjudge confiscations, and penalties.
219. Local Government may confer like powers on other Officers of Customs.
Proviso.
220. Appeal from Subordinate to Chief Customs authority.
221. Penalty under this Act not to interfere with punishment which may be inflicted under any other law.
222. Offences not specially provided for how to be adjudicated.
223. Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs Authority.
224. How payment of penalty to be enforced.
225. Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.
226. Imprisonment to terminate upon payment of the fine.
227. Or upon payment of proportional part of fine.
228. On confiscation of vessel, or goods, property to vest in Her Majesty.
229. Appropriation of penalties, &c., and grant of rewards.
230. Commencement of Act.

FORMS.

A. Form of Application for a license for private Ware-house.
B. Form of „ to Ware-house Goods.
C. Form of Bond for Import duty.
D. Form of Application to remove Goods from Ware-house.
E. Form of „ „ „ „ „ one Ware-house to another.
F. Form of Shipping Bill.
G. Form of Coasting Pass.
H. Form of Bond for the removal of Spirits from licensed Distillery.

ACT No. VI of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 29th January 1863.)

An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

Preamble.

WHEREAS it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and amended; It is enacted as follows:—

Title.

I. This Act shall be called the Consolidated Customs Act.

Laws repealed,

II. From and after the date on which this Act shall come into operation, Regulation IX. 1810 of the Bengal Code *(for rescinding the whole of the Regulations at present in force for the collection of the Government Customs in the Provinces of Bengal, Behar, Orissa, and Benares, and in the Ceded and Conquered Provinces; and for re-establishing those Customs with amended Rules for the collection of them)*, Regulation VI. 1814 of the said Code *(for modifying certain parts of Regulation IX. 1810 and Regulation I. 1812)*, Regulation XXI. 1817 of the said Code *(for modifying and explaining certain parts of Regulation IV. 1815)*, Regulation XV. 1825 of the said Code *(to make certain alterations in the rates of Duty charged, and Drawbacks allowed on Goods Imported or Exported by Sea at the Port of Calcutta or any other place within the Territories immediately subordinate to the Presidency of Fort William, and to amend and consolidate the rules in force relative to such Duties and Drawbacks)*, Regulation XV. 1829 of the said Code *(for altering the mode of valuing Goods Imported by Sea, with a view to the assessment of Customs Duties thereon)*, Regulation III. 1830 of the said Code

PRICE ONE RUPEE AND THREE ANNAS.

Code *(for amending part of the rules of Regulation XV.* 1829, *and likewise for better enforcing the payment of Duty on the Exportation of Goods by Sea),* Regulation VI. 1833 of the said Code *(for rescinding part of Regulation XV.* 1829, *and for enacting other rules in the case of Goods imported by Sea),* Acts XIV and XXV of 1836, Act XVI of 1837, Act VI of 1841 *(for prohibiting the Importation of Rum and Rum Shrub into the Presidency of Fort William in Bengal),* Act XIII of 1841 *(for explaining the provisions of Act No. XXV of* 1836*),* Act XXIII of 1841 *(for prohibiting the Importation of Rum and Rum Shurb into the Presidency of Fort St. George in Madras),* Act XXV *of* 1843 *(for making the provisions of* 5 *and* 6 *Vic., c.* 47, *Section XI, applicable to India),* Sections XVII to XLI and Sections XLVI to LXVIII of Act VI of 1844 *(for abolishing the levy of Transit or Inland Customs Duties, for revising the Duties on Imports and Exports by Sea, and for determining the price at which Salt shall be sold for home consumption within the territories subject to the Government of Fort Saint George),* Section III *of* Act VI of 1848 *(for equalizing the Duties on Goods Imported and Exported on Foreign and British Bottoms, and for abolishing Duties on Goods carried from Port to Port in the Territories subject to the Government of the East India Company),* Act VII of 1848 *(to except certain Free Ports from the operation of Section III of Act VI of* 1848 *and otherwise to amend that Act),* Act X of 1850 *(to declare Aden a Free Port),* Act I of 1852 *(for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay),* Act XXIX of 1855 *(for amending Act No. VI of* 1844*),* Act VII *of* 1859 *(to alter the Duties of Customs on Goods Imported or Exported by Sea),* Section III of Act XXII of 1859 *(to amend Act I of* 1852, *for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay),* Sections III and IV of Act X of 1860 *(to amend Act VII of* 1859, *to alter the Duties of Customs on Goods Imported or Exported by Sea);* and Section II of Act XXIII of 1860 *(to amend Act XXI of* 1856, *to consolidate and amend the laws relating to the Abkaree Revenue in the Presidency of Fort William in Bengal)*—are repealed; except in so far as they repeal the whole or any part of any other Regulation or Act; or relate to Duties leviable on Salt or Opium; and except as to any act done, offence committed, or liability incurred before the date on which this Act shall come into operation.

Interpretation.

III. The following words and expressions in this Act have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

1. The

"British India."

1. The words "British India" denote the Territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106 (entitled "An Act for the better government of India"), except the Settlenient of Prince of Wales' Island, Singapore, and Malacca.

"Local Government."

2. The words "Local Government" denote the persons authorized to administer Executive Government in any part of British India; or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such Chief Executive Officer shall by an order of the Governor-General in Council published in the Official Gazette, be authorized to exercise the powers vested by this Act in a Local Government.

"Chief Customs Authority of the Presidency or place."

3. The words "Chief Customs Authority of the Presidency or place," denote the persons authorized to exercise, under any Local Government, the chief control in the Department of Customs in any Presidency or place.

"Chief Officer of Customs of the Port."

4. The words "Chief Officer of Customs of the Port" denote the Executive Officer of highest rank in the Department of Customs in any Port.

"Officer in charge of the Custom House."

5 The words "Officer in charge of the Custom House" include every Officer of Customs who is for the time being authorized to have separate charge of a Custom House.

"Magistrate."

6. The word "Magistrate" includes every Officer exercising the powers of a Magistrate.

"Free Port."

7. The words "Free Port" denote any Port at which no Duties of Customs are leviable.

Eoreign Port."

8. The words "Foreign Port" include any Port situated beyond British India, and any Free Port.

"Foreign Goods."

9. The words "Foreign Goods" include all goods not produced or manufactured in British India.

"Vessel."

10. The word "Vessel" includes any thing made for the conveyance by water of human beings or property.

11. The

11. The words "Coasting Vessel" denote any Vessel plying between one Port in British India not being a Free Port and another Port in British India not being a Free Port, without touching at any intermediate Foreign Port.

"Coasting Vessel."

12. The words "Master or Commander" include every person, except a Pilot, having command or charge of any vessel.

"Master or Commander."

13. The word "Warehouse" denotes any place approved, appointed, or licensed for the keeping and securing of goods entered to be warehoused without payment of Duty on the first entry thereof.

"Warehouse."

14. Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number.

15. Words importing the masculine gender include females.

Gender.

GENERAL RULES.

IV. It shall be competent to the Chief Customs Authority of any Presidency or place, with the sanction of the local Government, to make and issue rules for regulating the practice and proceedings of Officers in the Department of Sea Customs; and from time to time to add to, alter, or revoke such rules or any of them; provided that no rule so made shall be inconsistent with any provision of this Act, or of any other law for the time being in force. Any rules made under this Section shall be published in the Official Gazette.

Making, issuing, and publishing of rules.

V. Any rules made under the last preceding Section may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the Custom House; and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger vessels. When any baggage or parcels are made over to an Officer of Customs for the purpose of being landed, a fee of such amount as the local Government shall from time to time direct, shall be chargeable

Also rules respecting passengers' baggage and mails.

chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom House.

Appeals how and by whom to be adjudicated.

VI. If any dispute shall arise between any Officer of Customs, and any Master or Commander of a vessel, or importer, exporter, owner, or consignee of goods, or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating to the importation, exportation, or warehousing of any goods, or to the levy of any Duty or penalty thereon, or to any seizure or forfeiture thereof, the Chief Customs Authority of the Presidency or place in which such dispute shall have arisen shall settle the same, subject to an appeal to the local Government, acting under the general instructions of the Governor-General of India in Council.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &C.

Local Government to appoint the necessary Officers.

VII. The local Government of every Presidency or place in which Duties of Sea Customs are levied, shall appoint such persons as it may deem proper to exercise the powers conferred, and to perform the duties imposed by this Act. Every person so appointed shall be liable to be suspended or dismissed by the local Government which appointed him.

Local Government may delegate its powers to other Customs authority. Subordinate Officers liable to be suspended or dismissed by the Authority appointing them.

VIII. The local Government may delegate to any Authority within its jurisdiction in the Department of Customs the whole or any portion of the powers vested in it by the last preceding Section. Every subordinate Officer who is appointed by virtue of such delegated power, shall be liable to be suspended or dismissed by the Authority which appointed him.

The Collector of Revenue of District to perform duties of Customs Officer, where there is no separate Customs Officer.

IX. At any Port or place at which there is no Officer in charge of a Custom House, the Collector of Revenue of the District and the Officers subordinate to such Collector shall be deemed to be the proper Officers for the performance of all duties required by this Act to be performed by an Officer in charge of a Custom House and other Officers of Customs.

X. The

X. The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, the places within such Presidency or place which alone shall be Ports for the shipment and landing of goods; and may declare the limits of such Ports; and may appoint proper places therein to be Wharves for the landing and shipping of goods; and may declare the bounds and extent of any such Wharf; and may from time to time alter the limit of any Port, or Wharf; and may alter the name thereof. Every Port and Wharf which shall have been declared and appointed, or which shall be existing as such, at the date on which this Act shall come into operation, shall continue to be such Port or Wharf, until the local Government shall otherwise declare by notice in the Official Gazette.

Local Government may from time to time appoint Ports and Wharves for shipment and landing, and may alter, &c.

Existing Ports and Wharves to continue in use until otherwise ordered.

XI. The Governor-General of India in Council may from time to time declare, by notice in the Official Gazette, that any Port in British India shall be a Free Port at which no Duties of Customs shall be levied on the importation or exportation of goods by Sea.

Governor-General in Council may declare Free Ports.

XII. The Governor-General of India in Council may from time to time declare, by notice in the Official Gazette, that any Port on the Continent of India, though such Port be situated beyond British India, shall be regarded as a British Indian Port for the purposes of Section XVIII, of Section CXLI, and of Sections CXLIX to CLX of this Act, in so far as the said Sections or any of them are capable of being applied with respect to such Port; and may in like manner from time to time by notice in the Official Gazette revoke or suspend the operation of any such declaration. So long as any such declaration shall be in force in respect to any Port, goods exported thereto from any Port in British India, or imported therefrom at any Port in British India, shall, as regards warehousing, drawback, and all other matters for which provision is made in any part of this Act, be treated in all respects like similar goods exported from one Port in British India to another such Port, or imported at one Port in British India from another such Port.

Governor-General may declare that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes

XIII. If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek, or arm of the Sea for the purpose of being landed or shipped at any Port or place, which, at the

Penalty for landing or shipping goods at unauthorized Port, &c.

the date of such landing, shipment, attempt, or bringing, shall not have been declared to be or shall not be existing as a Port for the landing and shipment of goods, such goods shall be liable to confiscation, together with any ship, boat, carriage, or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

Local Government may declare Warehousing Ports and Places.

Existing Ports to continue in use until otherwise declared.

XIV. The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, that any Port or place within such Presidency or place shall be a Warehousing Port or place for the purposes of this Act; and every Port which, at the date on which this Act shall come into operation, shall have been declared to be or shall be existing as a Warehousing Port, shall continue to be a Warehousing Port under this Act, until the local Government shall otherwise declare by notice in the Official Gazette.

Approval, appointment, and licensing of Warehouses.

Existing Warehouses to continue in use until otherwise ordered.

XV. In any Warehousing Port or place the Chief Customs Authority of the Presidency or place may from time to time approve, appoint, or license Warehouses or places of security wherein goods may be deposited without payment of Duty on the first entry thereof; and every Warehouse which, at the date on which this Act shall come into operation, shall have been approved, appointed, or licensed as such, shall continue to be a Warehouse under this Act, until otherwise ordered by such Chief Customs Authority.

LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

Import Customs.

XVI. Duties of Customs shall be levied on goods imported by Sea into any Port in British India, not being a Free Port, from any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Export Customs.

XVII. Duties of Customs shall be levied on goods exported by Sea from any Port in British India, not being a Free Port, to any Foreign Port or Place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

XVIII. No

No Duties on goods carried from one Indian Port to another not a Free Port.

XVIII. No Duties of Customs shall be levied on goods carried by Sea from any Port in British India, not being a Free Port, to any other Port in British India, not being a Free Port. Provided that nothing in this Section shall apply to Opium or Salt, or to Spirits manufactured after the English method.

Proviso as to Opium, Salt, and Spirits.

Local Government may in certain cases authorize exemption from payment of Duty.

XIX. It shall be lawful for the local Government to authorize the Chief Customs Authority of any Presidency or place, to exempt by special order, from the payment of Duty, under stated circumstances of an exceptional nature, any goods on which Duties of Customs are directed to be levied by any law for the time being in force.

Baggage in actual use.

XX. It shall be lawful for the Officer in charge of a Custom House to pass free of Duty at his discretion any baggage in actual use; and for this purpose to determine, subject to such general rules as may from time to time be made under Section IV of this Act, whether any goods shall be treated as baggage in actual use, or as goods subject to Duty.

General Provisions.

Prohibitions and restrictions.

XXI. The importation into or exportation from British India of the goods enumerated in the following Clauses is prohibited :—

I. Any book printed in infringement of any law in force in British India on the subject of copy-right, when the proprietor of such copy-right, or his agent, shall have given to the Chief Customs Authority of the Presidency or place a notice in writing that such copy-right subsists, and a statement of the date on which it will expire.

2. False or counterfeit coin; or coin which purports to be Queen's coin of India, but is not of the established standard in weight or fineness.

3. Any obscene book, pamphlet, paper, drawing, painting, representation, figure, or article.

XXII. The

Importation without License of Arms and Ammunition, prohibited.

XXII. The importation into British India of Arms or Ammunition, except under a license from the Governor-General of India in Council, or from some Officer authorized in that behalf by the Governor-General of India in Council, is prohibited. Nothing in this Section shall apply to fowling pieces, and sporting powder, *bonâ fide* imported by any person in reasonable quantities for his own private use.

Proviso.

Governor-General may prohibit or restrict importation or exportation of goods.

XXIII. It shall be lawful for the Governor-General of India in Council from time to time by notice in the Official Gazette to prohibit or restrict the importation or exportation of any particular class of goods.

Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.

XXIV.* If any goods, the importation or exportation of which is prohibited or restricted, or shall hereafter be prohibited or restricted, be imported into or exported from British India contrary to such prohibition or restriction ; or if any attempt be made so to import or export any such goods; or if any such goods be found in any package produced to any Officer of Customs as containing no such goods; or if any such goods or any goods subject to a Duty or restriction, in respect of importation or exportation, be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any Port in British India ; or if any goods, the exportation of which is or shall be prohibited or restricted, be brought to any Wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction,—such goods together with any goods which shall be found packed with or used in concealing them shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand Rupees.

Importation, exportation, and warehousing.

XXV. It shall be lawful to import into, or to export from, British India any goods, the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor-General of India in Council, for the time being in force; and any dutiable goods, the importation and warehousing of which is not prohibited or restricted by any such law or notice, may under the rules for the warehousing of goods in force at the Port of importation, be warehoused without payment of Duty on the first entry thereof.

XXVI. On

Owner &c., to declare real value of goods in bill of entry or clearance, and if necessary, to produce invoice, &c.

XXVI. On the importation into, or exportation from, any Port in British India of any goods not liable to Duty, or liable to fixed Duties according to weight, or quantity only, or to Duties on fixed Tariff valuations, the owner, consignee, importer, exporter, or agent of such goods shall, in his bill of entry or shipping bill, truly declare their real value to the best of his knowledge and belief. In case of doubt, it shall be lawful for the Officer in charge of the Custom House to require any such person or any other person who shall be in possession of any invoice, broker's note, policy of insurance, or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it shall be in his power to furnish. And it shall thereupon be the duty of such person to produce any such document or to furnish any such information so required by such Officer.

Under-valued goods how to be dealt with.

XXVII. If, upon the examination of any goods entered for Duty and chargeable with Duty upon the value thereof, but for which a specific value has not been fixed by the local Government, with the sanction of the Governor-General of India in Council, it shall appear to an Officer of Customs that such goods are properly chargeable with a higher rate or amount of Duty than that to which they would be subject, according to the value thereof as stated in the bill of entry or shipping bill, it shall be lawful for such Officer to detain such goods. In every such case the detaining Officer shall forthwith give notice in writing, to the person entering the goods, of their detention and of the value thereof as estimated by him; and the Officer in charge of the Custom House shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of Government. If the goods be retained for the use of Government, the Officer in charge of the Custom House shall cause the full value at which such goods were entered to be paid to the person entering the same, in full satisfaction for such goods, in the same manner as if such goods had been transferred by ordinary sale, and shall then cause the goods to be sold by public auction after due notice in the Official Gazette. If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the Duty to which the goods are liable, and all charges incurred by Government in connection with them, a portion not exceeding

exceeding one-half of the overplus shall, at the discretion of the Chief Officer of Customs of the Port, be payable to the Officer who detected the under-valuation of the goods. Nothing in this Section shall prevent the Chief Officer of Customs of the Port, when he shall have reason to believe that any such under-valuation was solely the result of accident, from permitting the person entering the goods, on his application for that purpose, to amend such entry, as regards valuation, on payment of such increased rate of Duties, or on such other terms as he may determine. When goods are retained under this Section on account of Government, the Duties payable thereon shall in no case be levied from the person entering such goods.

Goods brought to be passed through the Custom House liable to confiscation in case of discrepancy, mis-description, &c.

XXVIII. If it be found, when any goods are entered at or brought to be passed through a Custom House either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing them; or that the contents thereof have been wrongfully described in such entry or application as regards the denominations, characters, or circumstances according to which such goods are chargeable with Duty, or are being imported or exported; or that the contents of such packages have been wilfully mis-stated in regard to sort, quality, or quantity; or that goods not stated in the entry or application have been fraudulently concealed in or mixed with the articles specified therein, or have been packed to deceive the Officers of Customs, such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

Date of importation how to be determined.

XXIX. If upon the first levying, repealing, enhancement, or reduction of any Duty, or upon any change of any fixed valuation for Duty, or upon the first permitting, prohibiting, or restricting of any importation, it shall become necessary to determine the exact date on which an importation of goods had effect, such date shall be deemed to be that on which the goods were actually entered for home consumption at the Custom House.

Date of exportation how to be determined.

XXX. If, in like manner, it shall become necessary to determine the exact date on which an exportation of goods had effect, such date shall be deemed to be that on which the goods were actually entered outwards at the Custom House.

XXXI. If

Re-imported articles of country produce to be deemed Foreign.

XXXI. If goods produced or manufactured in British India be imported into any Port in British India from any Foreign Port or place, such goods shall be treated as Foreign goods, and shall be liable to all the Duties, conditions, and restrictions to which Foreign goods of the like kind and value are liable on the first importation thereof. Provided that if such importation shall take place within three years after the exportation of such goods, and it shall be proved to the satisfaction of the Officer in charge of the Custom House that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority of the Presidency or place shall, from time to time, direct. Goods, for which any drawback of Excise shall have been received on exportation, shall in all cases be treated as Foreign goods, unless the Chief Customs Authority of the Presidency or place shall in any case otherwise direct by special order.

Proviso.

Stations may be appointed for Customs Officers to board and also land from ship.

XXXII.* The Chief Customs Authority of any Presidency or place may, from time to time, appoint in any Port in British India, stations or places at which vessels arriving at, or departing from such Port, shall bring to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port, small vessels, not brought into Port by Pilots, shall be required to anchor or moor. The Chief Officer of Customs of any such Port may, at any time, station Officers of Customs on board of any vessel, while such vessel remains within the limits of the Port. Any person infringing any rule or order made under this Section by the Chief Customs Authority of any Presidency or place, or by the Chief Officer of Customs of any Port, shall be liable to a penalty not exceeding five hundred Rupees.

Penalty for infraction.

IMPORTATION.

Places may be fixed by the local Government beyond which inward bound vessels are not to proceed until a Manifest has been delivered.

XXXIII. It shall be lawful for the local Government of any Presidency, or place, by notice in the Official Gazette, to fix a place in any River or Port, beyond which place it shall not be lawful for any vessel, whether laden or in ballast, arriving from any Foreign Port or place, to pass, until the Master or Commander thereof shall have delivered to the

the Pilot, Officer of Customs, or other person duly authorized to receive the same, a Report or Manifest containing a true specification of all goods imported in such vessel with such particulars (as to the name, nation, tonnage, cargo, and Ports of lading of such vessel) and made out in such form as shall, from time to time, be directed by the Chief Customs Authority of the Presidency or place in which such River or Port is situated.

On failure, Master to be liable to penalty.

XXXIV. If, in any River or Port wherein a place has been so fixed by the local Government, the Master or Commander of any vessel arriving from a Foreign Port or place shall wilfully omit, before passing beyond such place, to deliver a Report or Manifest in the form and containing the particulars indicated in the last preceding Section, in so far as they are applicable to his ship, cargo, and voyage; or if any Report or Manifest so delivered shall not contain a true specification of all goods imported in such vessel, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for failure to report when vessel anchors below reporting Station, or to deliver a Manifest of the Cargo.

XXXV. If, in any River or Port wherein a place has been fixed by the local Government under Section XXXIII of this Act, the Master or Commander of any vessel arriving from any Foreign Port or place shall remain outside or below the place so fixed, such Master or Commander shall, nevertheless, so soon as the vessel shall anchor, deliver to the Pilot, Officer of Customs, or other person authorized to receive the same, a Report or Manifest as provided in the said Section. If any Master or Commander so remaining outside or below any such fixed place, shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver his Report or Manifest, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for not delivering Report or Manifest within 24 hours after anchoring.

XXXVI. If, after any vessel arriving from any Foreign Port or place shall have entered any Port in British India at which a Custom House is established, and in which a place shall not have been fixed under Section XXXIII of this Act, the Master or Commander of such vessel shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver as required by that Section his Report or Manifest to the Pilot, Officer of Customs, or other person authorized to receive the same, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

XXXVII. If,

Penalty for Pilot, &c., not receiving Report or Manifest.

XXXVII. If any Pilot, Officer of Customs, or other person authorized to receive a Report or Manifest from any Master or Commander of a vessel, shall refuse so to do, he shall, in every such case, be liable to a penalty not exceeding five hundred Rupees.

Penalty for vessel removing from place of mooring, or unlading, without due authority.

XXXVIII. If any vessel arriving from any Foreign Port or place at any Port in British India, shall, after having come to its proper place of mooring or unlading, remove from such place, except with the authority of the Master Attendant or Harbour Master, obtained in accordance with the provisions of Act XXII of 1855 *(for the regulation of Ports and Port-dues)*, directly to some other place of mooring or unlading, the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding one thousand Rupees, and the vessel shall not be allowed to enter until the penalty is paid.

Stations may be appointed for Officers of Customs to board vessels arriving from Foreign ports.

XXXIX. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint stations at which any vessel, arriving at any Port in such Presidency or place from any Foreign Port or place, may be required to bring to for the boarding of such vessel by an Officer of Customs deputed by the Officer in charge of the Custom House at such Port.

Penalty for not bringing to at boarding Station.

XL. If the Master or Commander of any vessel arriving at any Port in British India from any Foreign Port or place shall, when so required under the last preceding Section, fail to bring to at any such station as shall have been appointed by the Chief Customs Authority of the Presidency or place for the boarding of vessels by an Officer of Customs, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Officer in charge of Custom House may depute Officers of Customs to board ships.

XLI. It shall be competent to the Officer in charge of the Custom House at any Port in British India at any time to depute at his discretion one or more Officers of Customs to board any vessel arriving at such Port. Every Officer of Customs so sent, shall remain on board of such vessel by day and by night until it be

otherwise

otherwise ordered by the Officer in charge of the Custom House. Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the discharge of cargo may take place without the presence of an Officer of Customs.

Proviso.

XLII. Every Master or Commander of a vessel, who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to enter until the penalty is paid.

Penalty for refusing to receive Officer of Customs on board.

XLIII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall in every such case be liable to a penalty not exceeding five hundred Rupees.

Servant to be received with Officer.

Accommodation of Officer and Servant.

Penalty.

XLIV. Every Officer of Customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and shall have power to fasten down any hatchway or entrance to the hold, and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board of such vessel. If any box, place, or closed receptacle in any such vessel be locked, and the keys be withheld, such Officer shall report the same to the Officer in charge of the Custom House, who may thereupon issue to the Officer on board, or to any other Officer under his authority, a written order to search; and, on production of such order, it shall be competent to the Officer bearing the same to require that any place, box, or closed receptacle in such vessel be opened in his presence; and, if it be not opened upon his requisition, to break the same open; and any goods that shall be found concealed therein, and that shall not be duly accounted for to the satisfaction of the Officer in charge of the Custom House, shall be liable to confiscation.

Officers of Customs to have free access to every part of the ship, and may seal and secure goods.

Officer in charge of Custom House may authorize search and opening of locks.

Goods found concealed liable to confiscation.

XLV. If

XLV. If any Master or Commander of a vessel shall refuse to allow such vessel or any box, place, or closed receptacle in such vessel to be searched when so required by an Officer of Customs bearing a written order to search; or if an Officer of Customs shall place any lock, mark, or seal upon any goods, and such lock, mark, or seal shall be wilfully opened, altered, or broken, before due delivery of such goods; or if any such goods shall be secretly conveyed away; or if any hatchway or entrance to the hold, after having been fastened down by an Officer of Customs, shall be opened without his permission, in every such case the Master or Commander of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand Rupees.

Penalty for Masters resisting search, &c.

XLVI. No vessel arriving in any Port in British India from any Foreign Port or place, shall be allowed to break bulk until a Report or Manifest shall have been delivered as hereinbefore provided; nor until a copy of such Report or Manifest, together with an application for entry inwards, shall have been presented to the Officer in charge of the Custom House, and order shall have been given thereon by such Officer for the discharge of the cargo. The Officer in charge of the Custom House may refuse to give such order, until any Port-clearance, cockett, or other paper, which he shall know or have reason to believe, had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him. Nothing in this Section shall prevent an Officer in charge of a Custom House from granting, on receipt of the original Report or Manifest, and prior to the entry of the vessel at the Custom House, a special pass, under such rules as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, for the un-shipping of Bullion or Treasure.

Bulk not to be broken until Manifest &c., delivered, and ship entered at Custom House.

XLVII. The Master or Commander of every vessel arriving from any Foreign Port or place shall, at the time of applying for entry inwards at any Port in British India, deliver to the Officer in charge of the Custom House, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as shall be put to him by such Officer. If any such bill of lading or copy thereof shall be false; or if any such bill of lading or copy shall have been altered with fraudulent intent; or if the goods expressed in any such bill of

Master if required, to deliver Bill of lading, &c., to Officer in charge of Custom House.

Penalty for false entry, fraudulent alteration, &c.

of lading or in any bill of lading of which a copy shall be so produced shall not have been *bonâ fide* shipped on board of such vessel; or if any such bill of lading so produced, or any bill of lading of which a copy shall be so produced by any such Master or Commander, shall not have been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped; or if any part of the cargo shall have been staved, destroyed, or thrown overboard, or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Officer in charge of the Custom House; in every such case the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees.

Goods not to leave ship unless entered in Manifest. Goods not agreeing in description and quantity with entry in Manifest liable to confiscation, or extra Duty

XLVIII. No goods shall be allowed to leave any vessel, unless they be duly entered in the Report or Manifest of such vessel. If any goods be found on board in excess of those entered in the Report or Manifest, or not corresponding with the specification therein contained, the fact shall be reported by the Officer of Customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of Duty as the Chief Customs Authority of the Presidency or place shall direct.

Penalty for not being able to account for missing or deficient package, &c.

XLIX. If any goods entered in the Report or Manifest shall not be found on board of the vessel, or if the quantity found be short, and if such deficiency be not accounted for to the satisfaction of the Officer in charge of the Custom House, the Master or Commander of such vessel shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of Duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith; or if they be not, to a penalty not exceeding five hundred Rupees for every missing or deficient package of unknown value.

Amendment of obvious errors, &c.

L. Nothing contained in the two Sections last preceding shall be construed to prevent any Officer in charge of a Custom House from permitting the Master or Commander of any vessel to amend any obvious error, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary Report or Manifest. But the receiving of such amended or supplementary document shall always be discretionary with the Officer in charge of the Custom House; who, if he decide to receive any such amended or supplementary Report or Manifest, may levy thereon such

such fee as the Chief Customs Authority of the Presidency or place shall from time to time direct.

Period to be allowed for landing import Cargo.

LI. A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs) for the landing of import cargo from such vessel. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred. If the period occupied in the landing of import cargo be in excess of that so allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period.

Consequence of exceeding same.

Procedure in respect of goods not landed within time allowed.

LII. If the importer, owner, or consignee of any goods (except such as shall have been declared by the Master or Commander as not to be landed), or the agent of such importer, owner, or consignee, shall not land such goods within fifteen working days after the entry of the vessel importing the same, or within such further period as the bill of lading of such vessel shall specify, the Master or Commander of the vessel, or the Officers of Customs on the application of such Master or Commander, may then carry such goods to the Custom House; and the Officer in charge of the Custom House shall thereupon be bound to take charge of, and to grant receipts for such goods; and, if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, such Officer shall be bound to hold such goods until the freight, primage, Duties, and other charges to which such goods are liable, shall be paid.

And in case of goods being landed in time, with exception of only a small quantity.

LIII. If the cargo of any vessel, with the exception of a small quantity only of goods, shall have been landed within such period of fifteen days or such further period as the bill of lading shall specify, the Officers of Customs may, on the application of the Master or Commander of such vessel, direct that such remaining goods shall forthwith be carried in like manner to the Custom House.

Effect of not discharging Cargo in any earlier period specified in the bill of lading.

LIV. If any earlier period than fifteen working days after the entry of any vessel is specified in the bill of lading of such vessel for the discharge of her cargo or any part thereof, and if the importer, owner, or consignee of such cargo,

or

or the agent of such importer, owner, or consignee, shall not land the same within such specified period, the Master or Commander of such vessel, or the Officers of Customs on the application of such Master or Commander, may then carry such goods to the Custom House; and the Officer in charge of the Custom House shall thereupon be bound to take charge of and to grant receipts for such goods; and if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, such Officer shall be bound to hold such goods until the freight, primage, Duties, and other charges to which such goods are liable, shall be paid.

Goods may be landed at any time after arrival, with consent.

LV. At any time after the arrival of any vessel, the Officer in charge of the Custom House may, with the consent of the Master or Commander of such vessel, cause any small package or parcel of goods to be carried to the Custom House, there to remain for entry in charge of the Officers of Customs during the remainder of the working days allowed under the provisions of this or any other Act relating to Customs, for the landing of such package or parcel. If any package or parcel so carried to the Custom House shall remain un-claimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master or Commander may give such notice as is provided in Section LII of this Act, and the Officer in charge of the Custom House shall thereupon be bound to hold such package or parcel as provided in the said Section.

Procedure in case of non-payment of Duties within four months after entry of vessel.

LVI. If the Duties chargeable upon any goods carried to the Custom House under the provisions of any of the four Sections last preceding, together with the freight, primage, charges of landing and removal, rent and other charges, to which such goods shall be liable, shall not be paid within four months from the date of entry of the vessel, or if such goods shall not be duly warehoused within such period, such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied; first, to the payment of freight, primage, and general average; next, to the payment of Duties; and then to the payment of other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods. or to his agent on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made. If any such goods be of a

perishable

perishable nature, the Officer in charge of the Custom House may at any time direct the sale thereof, and shall apply the proceeds in like manner. Nothing in this Section shall be held to authorize the passing for home consumption of any dutiable goods without payment of Duties of Customs thereon.

Goods not cleared within two months from the date of landing to be sold.

LVII. If any goods be not cleared for home consumption or for warehouse within two months from the date of landing of such goods, or within such further period as the Officer in charge of the Custom House shall direct, such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of Duties and other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent on his application for the same; provided that such application be made within one year from the date of the sale of the goods, or that good reason be shown why such application was not so made.

Disposal of proceeds.

Goods not to be landed on Sundays, Holidays, &c., without permission; nor except within fixed hours, &c.

LVIII. Except with the written permission of the Officer in charge of the Custom House no goods, with the exception of passengers' baggage, shall on any Sunday, or on any Holiday or day on which the discharge of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be discharged from any vessel arriving at any Port in British India from any Foreign Port or place; nor, except with such written permission, shall any goods be so discharged on any day, except between such hours as the Chief Customs Authority shall, from time to time, appoint by notice in the Official Gazette; nor without the presence or authority of an Officer of Customs. Any Master or Commander of a vessel who shall cause or suffer any goods to be removed contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding one thousand Rupees; and all goods so unauthorizedly removed shall be liable to confiscation.

Penalty.

Goods removed from ship to be forthwith landed Otherwise liable to confiscation.

LIX. If any goods shall be removed from on board of any vessel for the purpose of being landed and passed for importation, such goods shall be forthwith removed to and landed at the Wharf or other place appointed for the landing of such goods. If such goods be not so removed, or landed, or if the boat containing such goods be found out of the proper track between the vessel and such Wharf or other proper place of landing, and such deviation be

not

not accounted for to the satisfaction of the Officer in charge of the Custom House, such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation.

Goods landed at any other than appointed Wharf or place liable to confiscation.

LX. No goods which shall have been discharged from any vessel under the authority of an Officer of Customs shall be landed, except at the Wharf or other place appointed for the landing of such goods. No goods which shall have been discharged into any boat for the purpose of being landed shall, previously to their being landed, be trans-shipped into any other boat without the permission of an Officer of Customs. Any goods landed or trans-shipped c ntrary to the provisions of this Section shall be liable to confiscation.

Goods landed without a boat-note, liable to confiscation, and person in fault, to penalty.

LXI. When any goods shall be sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent with each boat-load, or other separate despatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof. Each boat-note shall be signed by an Officer of the vessel, and likewise by the Officer of Customs on board, if any such Officer be on board. If any goods sent to be landed be found without a boat-note in any boat proceeding to land, such goods shall be liable to confiscation ; or the person by whose authority the goods are being landed, or the person in charge of the boat, if it appear that the fault was with him, shall be liable to a penalty not exceeding twice the amount of Duty leviable on the said goods.

Entry for home consumption.

LXII. The importer, owner, or consignee of any goods liable to Duties of Customs, and intended to be delivered for home consumption on the landing thereof from the importing ship, or the agent of such importer, owner, or consignee, shall make entry of such goods by delivering to the Officer in charge of the Custom House a bill of entry thereof in such form and containing such particulars as may, from time to time, be directed by the Chief Customs Authority of the Presidency or place. The particulars of such entry shall correspond with the particulars given of the same goods and packages in the Report or Manifest of the ship. Whenever the value of any goods is required to be stated in the entry, the importer, owner, or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry. Provided that, if the importer, owner, or

consignee

consignee, or his agent, shall make a declaration before the Officer in charge of the Custom House to the effect that he is unable, from want of full information, to state the value or contents of any case, package, or parcel of goods, then the Officer in charge shall permit him, previous to the entry thereof, to open such case, package, or parcel, and examine the contents in presence of an Officer of Customs. Except as provided in Section XXVII of this Act for cases of obvious error, no re-valuation of goods assessed for Duty on the declared value thereof shall be allowed after such goods shall have been removed from the Custom House.

Penalty for goods being delivered without entry.

LXIII. If, without entry duly made, any goods shall be taken or passed out of any Custom House or Wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding five hundred Rupees. Provided that no entry shall be required in respect of passengers' baggage, which may be examined, landed, and delivered under such rules as shall from time to time be made under Section IV of this Act by the Chief Customs Authority of the Presidency or place. Any prohibited or Dutiable goods found, either before or after landing, concealed in any such baggage, together with the other contents of the package in which they are found, shall be liable to confiscation.

Proviso as to passengers' baggage.

Penalty for goods being removed after landing and before due entry.

LXIV. If, after any goods have been landed and before they have been passed through the Custom House, the importer, owner, or consignee, or his agent, or any one acting on his behalf, removes or attempts to remove them, with the intention of defrauding the Revenue, such goods shall be liable to confiscation ; or, if the goods cannot be recovered, the owner shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of such Duty, if the goods be capable of being assessed therewith ; or, if they be not, to a penalty not exceeding one thousand Rupees for every missing or deficient package of unknown value.

Claims to abatement of Duty on account of damage how to be treated.

LXV. No claim for any abatement or refund of Duty on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any Port in British India, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified, on the first examination

examination thereof, by a Custom House Appraiser, or by such other person as the Officer in charge of the Custom House shall appoint for the purpose.

Disposal of damaged goods and levy of Duty thereon.

LXVI. Goods, the damaged condition of which is ascertained and certified to the satisfaction of the Officer in charge of the Custom House, may, after notice in the Official Gazette, be sold by public auction at such time (within thirty days from the date of entry), and at such place, as the Officer in charge of the Custom House shall appoint. The Duty on such goods shall be adjusted on the gross amount realized by their *bonâ fide* sale, as proved by the original account sales, without any abatement or deduction whatsoever, except of so much as represents the Duties payable on the importation thereof. On goods the value of which shall have been fixed under the provisions of Section CLXXIX of this Act, no abatement of Duties shall be allowed, unless they be deteriorated to the extent of one-fifth of their value. No abatement of Duty on account of damage shall be allowed on Wines, Spirits, or Beer, or on any other Articles on which Duties are levied on quantity and not on value.

Goods derelict and wreck to be treated as Foreign Goods.

LXVII. All goods derelict, jetsam, flotsam, and wreck brought or coming into any Port in British India, shall, at all times, be subject to the same Duties to which goods of the like kind are subject on importation at such Port, unless it shall be shown to the satisfaction of the Officer in charge of the Custom House, that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted Duty free ; or that such goods, if liable to Duty, are entitled to an abatement in respect of damage.

Officer in charge of Custom House may require goods to be weighed or measured on board before landing.

LXVIII. The Officer in charge of the Custom House, whenever he shall see fit, may require that goods brought by Sea, and stowed in bulk, shall be weighed or measured on board-ship before landing, and may levy Duty according to the result of such weighing or measurement.

No Duty on portion of import cargo intended for another Port, ship's stores, &c.

LXIX. Any portion of an import cargo intended for another Port, or any ship's stores intended for the home voyage, may be declared by the Master or Commander of any vessel as not to be landed, and may thereupon, with the special sanction of the Officer in charge of the Custom House, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of Duty. Provided

that

that all such cargo and ship's stores shall be entered in the Export Manifest of the vessel, as cargo or ship's stores not landed, and on which no Duty has been paid. Nothing in this Section shall prevent the Officer in charge of the Custom House from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

WAREHOUSING.

Deposit of goods in warehouse without payment of Duty.

LXX. It shall be lawful for any person who has imported any goods into any warehousing Port in British India to deposit such goods, without payment of Duty on the first entry thereof, in any public or private warehouse, approved, appointed, or licensed under this Act.

Public warehouses.

LXXI. Every building in any warehousing Port or place which the Chief Customs Authority of the Presidency or place shall from time to time approve or appoint for the purpose, shall be a public warehouse for the reception of goods under this Act. Every public warehouse shall be under the lock and key of a warehouse-keeper appointed by the Chief Officer of Customs of the Port or place in which it is situated. The warehouse-keeper shall, to the extent provided in Sections LXXVI and XCIII of this Act, and not otherwise, be responsible for the charge of all goods deposited in his warehouse, and for their due reception therein and delivery therefrom.

Responsibility of keeper.

Chief Customs Authority to decide what goods may be deposited in public warehouse, and on what terms.

LXXII. The Chief Customs Authority of the Presidency or place may from time to time determine in what divisions of any public warehouse, and in what manner, and on what terms, including rates of rent, any goods and what sort of goods, may be deposited without payment of Duty on the first entry thereof. A table of the rates of rent so fixed for every public warehouse shall be placed in a conspicuous part thereof.

Chief Officer of Customs may license private warehouses at any warehousing Port or place.

LXXIII. At any warehousing Port or place, the Chief Officer of Customs of the Port or place shall have power to license private warehouses for the reception of goods under this Act without payment of Duty on the first entry thereof. Every license for a private warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the Chief Officer of Customs of the Port or place in which such warehouse is situated.

LXXIV. Every

Form of application for license for private warehouses.

LXXIV. Every application for a license for a private warehouse shall be in writing and shall be drawn up in the form marked A annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

Form of application for the admission of goods into warehouse.

LXXV. Every application for the admission of goods into any public or private warehouse shall be in writing, and shall be drawn up in the form marked B annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

No goods to be warehoused without payment of Duty, unless assessed for Customs Duty.

LXXVI. No goods shall be warehoused without payment of Duty on the first entry thereof unless such goods shall have been assessed for Customs Duty in like manner as goods intended to be passed for home consumption. The warehouse-keeper in respect of goods lodged in a public warehouse, and the person who obtained the license in respect of goods lodged in a private warehouse, shall be answerable for the weight or gauge reported by the Custom House Officer who shall have assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in Section XCV of this Act. Nothing in this Section shall interfere with the re-assessment for Duty of warehoused goods on their clearance for home consumption, should an alteration of any Duty or of any fixed valuation for Duty render such re-assessment requisite with reference to the provisions of Section XXIX of this Act.

Public warehouse-keeper or license-holder of private warehouse to be answerable for weight or gauge.

Saving of the re-assessment of warehoused goods on clearance for home consumption.

Bond under what circumstances to be taken. Form and conditions of bond.

LXXVII. When an application shall have been made for the warehousing of any goods under this Act, and when such goods shall have been assessed for Duty as directed in the last preceding Section, the importer, owner, or consignee, or his agent, shall be required to execute a bond for the amount of such Duty in the form marked C annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place. Every such bond shall relate to the Duties chargeable on the cargo or portion of the cargo of one vessel only.

LXXVIII. Every

LXXVIII. Every bond shall be for twice the amount of Duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand at such rate, not exceeding six per cent. per annum, as shall be fixed by the Chief Customs Authority of the Presidency or place. Every person who shall execute any such bond shall be bound thereby for the payment of all Duties, interest, and charges that shall be claimable on account of the goods, and of penalties incurred for violation of the Customs law in respect to the same.

Terms of bond to be executed.

LXXIX. When any such bond shall have been executed, the goods to which such bond relates shall be allowed to remain in warehouse for a period not exceeding three years, without being liable to the demand of Import Duty.

Period for which goods may remain warehoused under bond.

LXXX. If any goods entered to be warehoused shall be carried into the warehouse, unless with the authority or under the care of the proper Officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such Officers shall direct, such goods shall be liable to confiscation, and the person so carrying them shall be liable to a penalty not exceeding one thousand Rupees.

Penalty for improper carrying into warehouse.

LXXXI. When the provisions of Sections LXXV, LXXVI, LXXVII, and LXXVIII shall have been complied with in respect to any goods, such goods shall be forwarded in charge of an Officer of Customs to the warehouse in which they are to be deposited. There shall be sent with the goods a pass in which the name of the importing vessel, and of the bonder, the marks, numbers, and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited, shall be specified. On receipt of the goods into the warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper Officer, and the pass shall be returned to the Officer in charge of the Custom House, after which the warehousing of such goods shall be deemed to have been completed. If any goods entered to be warehoused shall be withheld, or removed from any proper place of examination, before they shall have been examined and certified by the proper Officer, it shall be deemed that such goods have not been duly warehoused, and they shall beliable to confiscation.

Procedure in respect of goods to be warehoused.

Proviso as to confiscation.

LXXXII. When

LXXXII. When goods are passed by tale or by package, the importer, owner, or consignee of such goods, or his agent, shall, for every omission or mis-description thereof, tending to injure the Revenue, be liable to a penalty not exceeding ten times the amount of Duty which might have been lost to Government by such omission or mis-description, unless it shall be proved to the satisfaction of the Officer in charge of the Custom House that the variance was accidental. If the quantity or value of any goods shall have been over-stated on importation, the error may be rectified at any time before the warehousing of the goods shall be completed.

Penalty for mis-description of goods.

LXXXIII. No package, butt, cask, or hogshead shall be admitted into any public or private warehouse, unless it bear the marks and numbers specified in the pass for its admission. All goods shall be warehoused in the packages, butts, casks, or hogsheads in which they shall have been imported, except as provided in Section XCII of this Act. If any such goods be not so warehoused, or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in the said Section, or if any such goods be removed from the warehouse in which they were originally deposited, except in presence, or with the sanction of the proper Officer, or under the proper authority for their delivery, such goods shall be liable to confiscation.

Packages, &c., to be marked and numbered before admission into warehouse.

Proviso as to confiscation.

LXXXIV. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall neglect to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding fifty Rupees.

Penalty for neglecting to stow goods properly in warehouse.

LXXXV. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall fail, on the requisition of any Officer of Customs, to produce any goods which shall have been deposited in such warehouse, and which shall not have been duly cleared and delivered therefrom, he shall, for every such neglect, be liable not only to pay the Duties due on such goods, but also to a penalty not exceeding fifty Rupees in respect of every package or parcel so missing or deficient.

Or for neglecting to produce goods when required.

LXXXVI. If

Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.

LXXXVI. If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or after being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

Officer in charge of Custom House may cause packages lodged in warehouse to be opened and examined.

LXXXVII. The Officer in charge of the Custom House shall have authority at any time to issue his written order to cause any goods or packages lodged in any public or private warehouse to be opened, weighed, or otherwise examined as he shall direct ; and after any goods shall have been so opened or examined, to cause the same to be sealed or marked in such manner as to him may seem fit. When any goods shall have been so sealed and marked, after examination, they shall not be again opened without permission from the Officer in charge of the Custom House ; and when any such goods shall be opened with the permission of such Officer, the packages shall, if it shall seem fit to such Officer, again be sealed or marked as before.

Penalty for holder of license of private warehouse, refusing access to Customs Officers.

LXXXVIII. The Officer in charge of the Custom House, or any Officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act ; and if the person who has obtained a license for any such private warehouse shall not open the same when required so to do, by any Officer entitled under this Act or under any other law to have access thereto, or shall, upon demand made by any such Officer at any time within the hours of business at the Port, refuse access to any such Officer, such person shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to have his license forthwith cancelled and withdrawn.

When bond shall become due, for Duty on goods in private warehouse deprived of license.

LXXXIX. Every bond executed for Duty chargeable on goods deposited in any private warehouse shall become due and may be put in suit for the levy of such Duties and other demands of Customs after seven days shall have passed from the date on which the Officer in charge of the Custom House shall have given notice that the license for such warehouse is withdrawn.

XC. Any

Owners to have access to warehoused goods attended by an Officer of Customs during business hours.

XC. Any importer, owner, or consignee of goods lodged in a public or private warehouse under this Act, or the agent of any such importer, owner, or consignee shall, at any time within the hours of business, have access to his goods in presence of an Officer of Customs, and an Officer of Customs shall be deputed to accompany any such person upon application for the purpose being made in writing to the Officer in charge of the Custom House. When an Officer of Customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the Officer in charge of the Custom House a sum sufficient to meet the expense of employing a special Officer for this purpose, whenever the Officer in charge of the Custom House shall find it expedient to employ such special Officer.

Penalty for importer or owner of warehoused goods clandestinely gaining access.

XCI. If the importer, owner, or consignee of any warehoused goods, or the agent or any person in the employ of such importer, owner, or consignee, shall clandestinely open any warehouse, or, except in presence of the proper Officer of Customs, gain access to his goods, such importer, owner, consignee, or agent shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Goods in warehouse may be sorted, re-packed, &c. by owner, &c.

XCII. With the sanction of the Officer in charge of the Custom House, and after such notice given, and under such rules and conditions as the Chief Customs Authority of the Presidency or place shall from time to time prescribe, it shall be lawful for any importer, owner, or consignee of goods, or his agent, either before or after warehousing, to sort, separate, pack, and re-pack any goods and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be re-packed in the packages in which they were imported, or in such other packages as the Officer in charge of the Custom House shall permit) ; and also to fill up any casks of Wine, Spirits, or Beer from any casks of the same secured in the same warehouse; and also to mix any Wines of the same sort, erasing from the cask all import brands, unless the whole of the Wine so mixed be of the same brand ; and also to take such samples of goods as may be allowed by the Officer in charge of the Custom House, with or without entry, and with or without payment of Duty, except as the same may eventually become payable on a deficiency of the original quantity ; and after

after such goods have been so separated and re-packed in proper or approved packages, the Officer in charge of the Custom House may, at the request of the importer, owner, or consignee of such goods, or his agent, cause or permit any refuse, damaged, or surplus goods remaining after such separation or re-packing (or, at the like request, any goods which may not be worth the Duty) to be destroyed, and may remit the Duty payable thereon.

Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.

XCIII. No Importer, owner, or consignee of goods shall be entitled to claim from the Officer in charge of the Custom House, or from any keeper of a public warehouse, compensation for any loss or injury that may occur to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of the warehouse-keeper or of an Officer of Customs.

Chief Customs Authority may remit Duties on warehoused goods lost or destroyed, and if goods are damaged, Duty to be levied on actual value.

XCIV. If any goods warehoused or entered to be warehoused, or entered to be delivered from a warehouse, shall be lost or destroyed by unavoidable accident or delay either on board of any vessel, or in landing, or during receipt into the warehouse, or in the warehouse, the Chief Customs Authority of the Presidency or place may remit the Duties due thereon or return them if paid. Provided that, if any goods be so destroyed in a private warehouse, notice thereof be given to the Officer in charge of the Custom House within forty-eight hours after the discovery of such destruction. If goods lodged in a warehouse shall receive damage through unavoidable accident, they shall be re-assessed for Duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

Import Duty to be on the quantity or value registered at time of importation.

XCV. The Import Duty on all goods shall be settled on the quantity or value thereof, as the case may be, registered at the time of importation, without any deduction whatever. Provided that if it shall appear, at the time of clearing any Wines, Spirits, Beer, or Salt from any warehouse, that a deficiency exists, an allowance (on account of ullage and wastage) shall be made in adjusting the Duties thereon, to an extent not exceeding the rates specified below, or in such Table as may from time to time

Proviso as to wines, spirits, beer, or salt.

be

be prescribed in this behalf by the local Government and notified in the Official Gazette :—

Rates of ullage or wastage in respect to Wines, Spirits, and Beer in cask.

For any time not exceeding ———	6 months	2½	per Cent.
Exceeding 6 months and not exceeding	12 months...	5	"
Exceeding 12 months and not exceeding	18 months	7½	"
Exceeding 18 months and not exceeding	2 years	10	"
Exceeding 2 years and not exceeding	3 years	12½	"

When Salt is warehoused in a Government Golah or Store-house under charge of a Government Officer, Duty of Customs shall be chargeable only on the amount actually cleared.

The rate of wastage to be allowed in adjusting the Duties on Salt warehoused in a private Golah or Store-house, shall be prescribed from time to time by the Local Government and notified in the Official Gazette.

Penalty for deficiencies in a private warehouse, if beyond ullage and wastage allowed.

XCVI. If any goods lodged in a private warehouse shall be found to be deficient at the time of delivery therefrom, the person who obtained the license for such warehouse shall, unless the deficiency be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty equal to five times the Duty chargeable on the goods so deficient. Provided that nothing in this Section shall apply to any Wines, Spirits, Beer, or Salt, the deficiency in which is proved to be due solely to ullage or wastage; and that it shall be competent to the Chief Customs Authority of any Presidency or place to direct, in respect to any such article, and for the purposes of this Section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in the last preceding Section.

Penalty for excess, in private warehouse, over registered quantity.

XCVII. If any goods lodged in a private warehouse shall be found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the Officer in charge of the Custom House, shall be charged with five times the ordinary Duty thereon. When any penalty shall be incurred under this or the last preceding Section, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

Goods not to be removed from warehouse, except after application to the Officer in charge of the Custom House.

XCVIII. No goods shall be removed from any warehouse, except after application to the Officer in charge of the Custom House, for permission to pass the goods for exportation by Sea to some Foreign Port or place ; or for home consumption, in like manner as other goods are passed through the Custom House ;

House ; or for removal to another warehouse, as provided in Sections CV, CVI, CVII, and CVIII of this Act.

Form of application for removal of goods. Twenty-four hours' notice to be given.

XCIX. Application to remove goods from any warehouse shall be made in the form marked D annexed to this Act, or in such other form as the Chief Customs Authority of the Presidency or place may from time to time prescribe. Such application shall ordinarily be made to the Officer in charge of the Custom House twenty-four hours before it is intended so to remove such goods.

Penalty if goods be taken out of warehouse without entry.

C. If any goods shall be taken out of any warehouse otherwise than as is provided in this Act, the bonder shall forthwith pay the Duties due upon such goods; and every person who shall so take out any goods without payment of Duty, or who shall aid, assist, or be concerned therein, shall, in every such case, be liable to a penalty not exceeding one thousand Rupees. If the person so offending be an Officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the importer, owner, or consignee of such goods, no Duty shall be payable in respect of such goods, and any damage so occasioned by such Officer shall, with the sanction of the Chief Customs Authority of the Presidency or place, be repaid by the Officer in charge of the Custom House to such importer, owner, or consignee.

Expenses of carriage, packing, &c., to be borne by owners.

CI. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a warehouse, shall, if paid by the Officer in charge of the Custom House or by the warehouse-keeper, be chargeable on the goods, and be defrayed by the importer, owner, or consignee, in like manner as the Duties of Customs.

Payment of rent and warehouse dues. In case of failure, goods may be sold, &c.

CII. If goods be lodged in a public warehouse, the importer, owner, or consignee shall further pay monthly, on receiving a bill or written demand for the same from the warehouse-keeper, the rent and warehouse dues. If any such bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the Officer in charge of the Custom House shall have power, in liquidation of such demand, (any transfer or assignment of the goods notwithstanding) to cause to be sold by public auction, after due notice in the Official Gazette such sufficient portion of the goods as he may select. Out of the proceeds of

such

such sale the Officer in charge of the Custom House shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if there be any, to the importer, owner, or consignee; provided that application for the same be made within one year from the date of the sale of the goods, or that good reason be shewn why such application was not so made.

Disposal of proceeds.

CIII. If any goods warehoused as provided in this Act shall be removed or taken from the warehouse, otherwise than for removal to another warehouse as provided in Sections CV, CVI, CVII, and CVIII of this Act, or for exportation by Sea to some Foreign Port or place ; or if any goods shall not have been cleared from the warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse, the Officer in charge of the Custom House shall thereupon demand the full amount of import Duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

On goods being removed otherwise than for export, &c., full Duty to be paid.

CIV. If any importer, owner, or consignee shall fail to pay any Duty or penalty that shall fall due on account of goods warehoused under this Act, it shall be lawful for the Officer in charge of the Custom House either to proceed upon the bond executed by such importer, owner, or consignee, or to cause such portion as to him shall seem fit of the warehoused goods, on account of which the Duty or penalty is demanded, to be detained in satisfaction thereof ; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand after due notice in the Official Gazette. The proceeds of any sale so made of goods so detained, shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale ; and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid over to the importer, owner, or consignee of the goods; provided that application for the same be made within one year from the date of the sale, or that good reason be shown why such application was not so made. No transfer or assignment of goods shall prevent the Officer in charge of the Custom House from proceeding against such goods in the manner above provided for any demand of Customs Duties or penalty claimed thereon.

On failure to pay Duty, Officer in charge of Custom House may proceed against goods, or under the bond, and may detain goods and sell after ten days, if demand not paid.

Disposal of proceeds.

CV. Any

Goods may be removed from one warehouse to another, application being made according to prescribed form.

CV. Any importer, owner, or consignee of goods warehoused under this Act, or any agent of such importer, owner, or consignee may, with the permission of the Chief Officer of Customs of the Port, and on such conditions and after giving such security as the Chief Customs Authority of the Presidency or place shall direct, remove goods from one public or private warehouse to another warehouse in the same Port. When any person shall desire so to remove any goods, he shall make application in the form marked E annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe.

Bonded goods may be removed from one Port to another.

CVI. Goods warehoused under this Act at any Port or place in British India may in like manner be removed by Sea or by inland carriage in order to be re-warehoused at any other Port or place in British India in which the like kind of goods may lawfully be warehoused. Such goods may also again in like manner be removed to any other such Port or place to be there again re-warehoused. When any person shall desire so to remove any goods, he shall make application to the Chief Officer of Customs of the Port or place at which they are warehoused, stating the particulars of the goods to be removed, and the name of the Port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form, as the Chief Customs Authority of the Presidency or place shall from time to time prescribe.

Procedure.

Officers at Port of removal to transmit account of goods to Officers at Port of destination. Owner to execute bond for due arrival, &c.

CVII. When permission is granted for the removal of any goods from one warehousing Port or place to another under the last preceding Section, an account containing the particulars thereof shall be transmitted by the proper Officer of the Port or place of removal to the proper Officer of the Port or place of destination, and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and warehousing thereof at the Port or place of destination, within such time as the Chief Customs Authority of the Presidency or place shall direct. Such bond may be taken by the proper Officer, either of the Port or place of removal, or of the Port or place of destination, as shall best suit the residence or convenience of the persons interested in such removal. If such bond shall be taken at the Port or place of destination, a certificate thereof, signed by the proper Officer of such Port or place

shall

shall, at the time of the entering of such goods, be produced to the proper Officer of the Port or place of removal, and such bond shall not be discharged unless such goods shall be produced to the proper Officer, and duly re-warehoused at the Port or place of destination, within the time allowed for such removal, or shall be otherwise accounted for to the satisfaction of such Officer; nor until the full Duties due upon any deficiency of such goods, not so accounted for, shall have been paid.

Remover may enter into a general bond.

CVIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to permit any person desirous of removing warehoused goods, to enter into a general bond, with such sureties, in such amount, and under such conditions, as such Chief Customs Authority shall approve, for the removal from time to time of any goods from one warehouse to another, either in the same or in a different Port or place, and for the due arrival and re-warehousing of such goods at the Port or place of destination, within such time as the said Chief Customs Authority shall direct.

Goods on arrival at Port of destination to be subject to same laws as goods on first importation.

CIX. Upon the arrival of warehoused goods at the Port or place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last mentioned goods.

Goods brought into one Indian Port, but intended for another Indian Port, may be trans-shipped without payment of Duty, on security being given.

CX. When goods are brought in any vessel to any Port in British India and application is made for leave to trans-ship such goods for removal to some other Port in British India, such trans-shipment shall be allowed without the payment of Duty at the Port of trans-shipment, provided that the person requiring such trans-shipment shall enter into a bond with such security as may be required of him, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as the Chief Officer of Customs of the Port of trans-shipment shall direct. Such goods shall thereupon be treated in all respects as warehoused goods, removed under the provisions of Sections CVI and CVII of this Act. An Officer of Customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel.

CXI. If

On arrival at destination of goods removed under Sec. CX. they may, after formal re-warehousing, be entered for exportation or home use on payment of Duties.

CXI. If, on the arrival at the Port of destination, of goods removed under the last preceding Section, the person making the removal shall be desirous forthwith to export such goods by Sea to some Foreign Port or place or to pay Duty thereon for home consumption without actually lodging the goods in the warehouse for which they had been entered, the Officer in charge of the Custom House at such Port of destination may, after all the formalities of entering and examining such goods for re-warehousing shall have been duly performed, permit the goods to be entered and shipped for exportation, or to be entered and delivered for home consumption, upon payment of the Duties due thereon, in like manner as if such goods had been actually lodged in such warehouse. All goods so exported, or for which the Duties have been so paid, shall be deemed to have been duly cleared from the warehouse.

Removal of ods to be noted on the nd, with particulars.

CXII. When any goods warehoused as provided in this Act shall be removed from any public or private warehouse, the Officer in charge of the Custom House shall cause such removal to be noted on the back of the bond. Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the Export Pass under which they have been taken away, if removed for exportation by Sea, or of the Import Pass or order, if removed for home consumption, and the amount of Duty (if any) paid.

A register of bonds to be kept. When the bonds are to be cancelled and returned to the obligee.

CXIII. A register shall be kept of all bonds entered into for Customs Duties on goods warehoused as provided in this Act, and entry shall be made in such register of all particulars specified in the last preceding Section. When the register shall show that the entire quantity of the goods covered by any bond has been withdrawn from warehouse, either owing to the goods being passed for home consumption on the payment of Duties, or owing to their re-exportation by Sea to some Foreign Port or place, and when all charges and penalties which have been incurred on account of such goods shall have been paid, it shall be competent to, and shall be the duty of, the Officer in charge of the Custom House, to cancel such bond, as discharged in full, and to deliver it, so cancelled, to the person who shall have executed or who shall be authorized to receive it.

CXIV. In

Duty on warehoused goods to be settled within three years.

CXIV. In no case shall the settlement of Duty on warehoused goods be delayed beyond three years from the date of the first warehousing of the goods in British India.

Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

CXV. All the provisions of this Act relating to private warehouses shall be applicable to all warehouses wherein the Bengal Bonded Warehouse Association shall receive bonded goods.

EXPORTATION.

Permission for entry outwards to be obtained before export cargo is put on board.

CXVI. No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application shall have been duly made to the Officer in charge of the Custom House by the Master or Commander of such vessel, or by his authorized agent, nor until an order shall have been given thereon by such Officer for such entry or shipment of cargo. Every application made under this Section shall specify the name, tonnage, and nation of the vessel, the name of the Master or Commander, and the name of every place for which cargo is to be shipped. If any goods be taken on board of any vessel at any Port in British India before she shall have been so entered outwards at such Port, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees.

Penalty.

Period allowed for the shipment of export cargo.

CXVII. A period of fifteen working days, after the expiration of the period allowed for discharging import cargo under Section LI of this Act, or such further period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs), for the shipment of export cargo on board of every vessel not exceeding six hundred tons. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred. If the period occupied in the shipment of export cargo be in excess of that allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period. Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import cargo, and before the commencement of the shipment of export cargo, shall be laid up by the withdrawal of the Officer of Customs upon application from the Master or Commander

Consequence of exceeding same.

Penalty for lading in the absence of Customs Officer.

mander. If the Master or Commander of any vessel so laid up shall, before application is made by him or his agent for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such Master or Commander shall be liable to a penalty not exceeding one thousand Rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and if not protected by a pass, shall be liable to confiscation.

Goods not to be shipped except on proper days and places, nor until entry and clearance.

CXVIII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall, on any Sunday, or on any holiday or day on which the shipping of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be shipped or water-borne to be shipped for exportation from any Port in British India; nor, except with such written permission, shall any goods be so shipped or water-borne to be shipped on any day except between such hours as such Chief Customs Authority shall from time to time appoint by notice in the Official Gazette; nor from any place in any such Port except a Wharf duly appointed for such purpose; nor without the presence of the proper Officer of Customs; nor before due entry outwards of the exporting vessel, and of the goods; nor before such goods shall have been duly cleared for shipment. Any person who shall cause or suffer any goods to be shipped or water-borne to be shipped contrary to any of the provisions of this Section shall, in every such case, be liable to a penalty not exceeding one thousand Rupees; and any goods so unauthorizedly shipped or water-borne for shipment, together with any vessel in which they are being so water-borne, shall be liable to confiscation.

Penalty for contravention.

Customs Officer may open package and examine goods shipped.

CXIX. It shall be lawful for an Officer of Customs to open any package, and fully to examine any goods shipped or brought for shipment at any place in British India.

Officer in charge of Custom House may send Officers of Customs on board of any vessel clearing from Port.

CXX. It shall be competent to the Officer in charge of the Custom House at any Port in British India at any time to send at his discretion one or more Officers of Customs on board of any vessel clearing from such Port. Every Officer of Customs so sent shall remain on board of such vessel by

day

day and by night, until it shall be otherwise ordered by the Officer in charge of the Custom House. Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the shipment of cargo may take place without the presence of an Officer of Customs.

And may allow shipment without presence of Officer.

CXXI. Every Master or Commander of a vessel who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to take in cargo until the penalty is paid.

Penalty for refusal to receive on board a deputed Officer of Customs.

CXXII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs under Section CXX of this Act, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall in every such case be liable to a penalty not exceeding five hundred Rupees.

One servant to be received on board with each Officer of Customs.

Accommodation of Officer, &c.

Penalty.

CXXIII. No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent shall have filled in and delivered to the Officer in charge of the Custom House, or other proper Officer, a shipping bill of such goods in the form marked F appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Exporter to deliver shipping bill before shipping any goods.

CXXIV. Before any warehoused goods, or goods subject to Duties of Excise, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, shall be permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum, not exceeding twice the Duty leviable on such goods, as the Officer in charge of the

On entry outwards, bond-note to be given for the shipping and landing.

the Custom House shall direct, with one sufficient surety that such goods shall be duly shipped, exported, and landed at the place for which they are entered outwards, or shall be otherwise accounted for, to the satisfaction of such Officer.

Boat-note.

CXXV. When any goods shall be sent for the purpose of being shipped for exportation on board of any vessel, there shall be sent with each boat-load or other separate despatch a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof. Each boat-note shall be signed by the proper Officer of Customs, and shall be delivered to the Officer of Customs who is on board of the vessel on which such goods are to be shipped, if any such Officer be on board. If no such Officer be on board, every such boat-note shall be delivered to the Master or Commander of the vessel, or to an Officer of the vessel appointed by such Master or Commander to receive it. If any person so receiving any such boat-note shall fail to deliver it, when required so to do by any Officer of Customs authorized to make such requisition, such person shall be liable to a penalty not exceeding five hundred Rupees.

Penalty for non-delivery of boat-note.

No vessel to depart without a Port-clearance.

CXXVI. No vessel, whether laden, partially laden, or in ballast, shall depart from any Port in British India until a Port-clearance shall have been granted by the Officer in charge of the Custom House or other Officer duly authorized to grant the same. Every application for Port-clearance shall be made by the Master or Commander at least twenty-four hours before the intended departure of the vessel; and every Master or Commander of a vessel so applying for Port-clearance shall answer to the proper Officer of Customs such questions touching her departure and destination as shall be demanded of him. If any Master or Commander of a vessel shall attempt to depart without a Port-clearance, such Master or Commander shall be liable to a penalty not exceeding five hundred Rupees. If any vessel shall actually depart without a Port-clearance, the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees; and such penalty may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed, or in which she shall be. A certificate of departure without Port-clearance purporting to be signed by the Chief Officer of Customs of the Port from which any vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

Penalties.

CXXVII. Except

CXXVII. Except when duly appointed by the Master Attendant at any Port, or by some other Officer duly empowered in that behalf by the local Government, no Pilot shall take charge of any vessel proceeding to Sea, unless the Master or Commander of such vessel shall produce a Port-clearance. Every person convicted before a Magistrate of an infraction of this rule, shall be liable to a penalty not exceeding one thousand Rupees.

No Pilot to take charge of any vessel proceeding to Sea without production of Port-clearance.

Penalty.

CXXVIII. The Master or Commander of every vessel intending to leave any Port in British India shall, at the time of applying for Port-clearance, deliver to the Officer in charge of the Custom House, or other duly authorized Officer, a Manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place, containing a full and true specification of all goods to be exported in the vessel; and shall also deliver to the Officer in charge of the Custom House, or other duly authorized Officer, such certificates as the Officer in charge of the Custom House, acting under the general instructions of such Chief Customs Authority, shall require. The Officer in charge of the Custom House, or other duly authorized Officer, when satisfied with the said certificates, and as to the correctness of the Manifest, shall grant a Port-clearance to the Master or Commander, and shall return at the same time to such Master or Commander one copy of the Manifest duly countersigned by the proper Officer of Customs.

The Master of a vessel, on applying for Port-clearance, to deliver a Manifest and certificates.

CXXIX. It shall be competent to the Officer in charge of the Custom House to refuse Port-clearance to any vessel until the required Manifest and certificates are produced, and until all Port-dues and other charges and penalties due by such vessel, or by the Master or Commander thereof, are duly paid or their payment secured by such guarantee, or by a deposit at such rate, as the Officer in charge of the Custom House shall direct.

Port-clearance may be refused unless all documents are delivered and charges paid.

CXXX. If any goods liable to Duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the Manifest of any vessel, shall not be duly shipped before the departure of such vessel, or shall not be duly certified by the proper

Certain goods if entered in Manifest and not shipped, liable to confiscation. Penalty for shipment of goods not in Manifest, &c

Officer

Officer as short-shipped, such goods shall be liable to confiscation. If any goods not enumerated in such Manifest shall be taken on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding fifty Rupees in respect of every package of such goods. If any goods duly shipped on board of any such vessel be landed at any place other than that for which they shall have been so cleared, the Master or Commander of such vessel shall, unless the circumstance be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty not exceeding three times the value of such goods so landed.

Additional charge on goods passed for shipment after Port-clearance has been granted.

CXXXI. When goods are passed through the Custom House for shipment on an application presented after Port-clearance shall have been granted, two per cent. upon the market value of any such goods not liable to Duty, or liable to specific Duties according to weight or quantity only, or to Duty according to value, and upon the Tariff value of goods so passed, which are liable to Duties on fixed Tariff valuations, shall in every case be levied in addition to any Duty to which such goods shall be ordinarily liable. Provided that nothing in this Section shall be deemed to apply to any shipment of Treasure or Opium.

Duty on goods not shipped or re-landed may be returned on application.

CXXXII. Upon an application being made to the Officer in charge of the Custom House, the Duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be returned to the person on whose behalf such Duty was paid. Provided that no such refund shall be allowed unless application to re-land shall have been made, or notice of non-shipment shall have been given, before the vessel on which such goods were intended to be shipped, or from which they were re-landed, shall have left the Port.

Proviso.

Stations may be appointed at which outward bound vessels shall bring to, to land Officers of Customs.

CXXXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint, for any Port within such Presidency or place, stations at which any vessel departing from such Port may be required to bring to for the landing from such vessel of Officers of Customs, or for further examination previous to such departure.

CXXXIV. If

Penalties in case of vessels not bringing to at prescribed Stations.

CXXXIV. If the Master or Commander of any vessel departing from any Port in British India shall, when so required, fail to bring to at any station that shall have been appointed by the Chief Customs Authority of any Presidency or place under the last preceding Section, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees. If any vessel shall actually depart after failing to bring to when required, at any station appointed under the last preceding Section, the penalty leviable under this Section from the Master or Commander of such vessel may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed, or in which she shall be. A certificate of such failure to bring to when required, purporting to be signed by the Chief Officer of Customs of the Port from which the vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

Goods re-landed from a vessel returning to Port, or putting into another Port, how to be dealt with.

CXXXV. If any vessel, after having cleared from any Port in British India, shall, without having discharged her cargo, return to such Port, or put into any other Port in British India not being a Free Port, any owner or shipper of cargo in such vessel, or the agent of any such owner or shipper, if he shall desire to land the same or any portion thereof for re-export, may make application to the Officer in charge of the Custom House; who, if he grant such application, shall thereupon send an Officer of Customs to watch the vessel, and to take charge of the cargo during such re-landing or removal from on board. Goods on board of such vessel shall not be allowed to be trans-shipped or re-exported free of Duty, by reason of the previous settlement of Duty at the time of first export, unless such goods shall be lodged and shall remain, under charge of an Officer of Customs, in a place appointed by the Officer in charge of the Custom House, until the time of re-export. All charges attending such custody shall be borne by the exporter.

Vessel returning to Port may enter, and land goods under Import rules.

CXXXVI. In any case of the return of any vessel to Port, after Port-clearance, it shall be lawful for the Master or Commander of such vessel, or for any owner or shipper of cargo therein to enter such vessel and to land such cargo under the rules for the importation of goods. In every such case the Export Duty shall be refunded to, and the amount paid in drawback shall be reclaimed from, such owner or shipper; and if any goods, on account of which

drawback

drawback has been paid, be not found on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the Officer in charge of the Custom House.

Penalty for deficiency.

DRAWBACK.

CXXXVII. Upon the re-export by Sea, to any Foreign Port or place, of any goods, except Salt or Opium, imported by Sea into British India from any Foreign Port or place, and upon which Duties of Customs have been paid on importation, seven-eighths of such Duty shall be repaid as drawback, and one-eighth shall be retained as reserved Duty. Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House; and that the re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place shall, on sufficient cause for such extension being shown, in any case determine. No re-payment shall be made under this Section on account of any article entered in the Export Manifest of the Vessel as Ship's Stores. Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation. But it shall be lawful for the said Chief Customs Authority in any such case to direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles.

Amount of Drawback allowable on re-export.

Conditions for grant of Drawback.

CXXXVIII. No payment of drawback shall be made upon any goods re-exported from any Port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment. No such payment of drawback shall be made until the vessel carrying the goods has put out to Sea.

Time to claim and demand payment of drawback.

CXXXIX. No drawback shall be allowed upon the exportation of any goods entered for drawback, which shall be of less value than the amount of the drawback claimed. All such goods so entered shall be liable to confiscation.

Drawback not allowed on goods of value less than amount claimed. Such goods liable to confiscation.

CXL. No

No drawback on goods not entered in Export Manifest.

CXL. No drawback shall be allowed upon goods not included in the Export Manifest.

No drawback allowed except on goods exported out of India.

CXLI. No drawback shall be allowed upon goods exported from one Port in British India, to another such Port, not being a Free Port. But drawback may be allowed upon goods which, after having been charged with Duty at one Port in British India, and thence exported to another such Port not being a Free Port, are thence again re-exported by Sea to a Foreign Port or place. Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House at the Port of final exportation, and that such final exportation be made within three years from the date of first importation into British India.

Proviso.

Declaration to be made by parties claiming drawback.

CXLII. Any person, or the duly authorized agent of any person, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been re-landed, and are not intended to be re-landed at any Port in British India; and that such person was, at the time of entry and shipment, and continues to be, entitled to drawback thereon.

Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.

CXLIII. If any goods on the entry of which for re-export drawback shall have been paid shall not be duly exported to a Foreign Port or place, or shall be un-shipped or re-landed at any Port in British India (not having been duly re-landed or discharged as short-shipped under the care of an Officer of Customs, or under Section CXXXV or Section CXXXVI of this Act), such goods, together with any vessel used in so un-shipping or re-landing them, shall be liable to confiscation; and the Master or Commander of the vessel from which such goods shall be so un-shipped or re-landed, and any person by whom or by whose orders or means such goods shall be so un-shipped or re-landed, or who shall aid or be concerned in such un-shipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand Rupees.

Drawback of Duties on wine allowed for Officers of the Navy.

CXLIV. A drawback of the whole of the Duties of Customs shall be allowed for wine intended for the consumption of any Officer of Her Majesty's Navy, on board of any of Her Majesty's ships

ships in actual service, unless such wine shall have been warehoused without payment of Duty on the first entry thereof. The quantity of wine on which drawback may be so allowed in any one year for the use of any such Officer shall not exceed the proportions specified below; that is to say :—

	Gallons.
For every Admiral	1,260
Vice-Admiral	1,050
Rear-Admiral	840
Captain of 1st and 2nd rate	630
Captain of 3rd, 4th, and 5th rate	420
Captain of an inferior rate	210
Lieutenant or other Commanding Officer, and for every Marine Officer, Master, Purser, or Surgeon	105

Persons entering such wine for drawback to declare the name and rank of Officer claiming the same.

CXLV. Every person clearing and claiming drawback for wine as provided in the last preceding Section, shall state in the entry the name of the Officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed. All such wine shall be delivered into the charge of the proper Officers of Customs at the Port of shipment, to be shipped under their care; and when the Officer commanding the ship shall have certified the receipt of such wine into his charge, and the proper Officer of Customs shall have certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine from one Naval Officer to another, &c.

CXLVI. The Officer in charge of the Custom House may permit the transfer of any such wine from one Naval Officer to another Naval Officer, on board of the same or of any other such ship, as part of his authorized proportion; or may permit the trans-shipment of any such wine from one ship to another for the use of the same Naval Officer; or the re-landing and warehousing of any such wine for future re-shipment. The Officer in charge of the Custom House may also receive back the Duties for any such wine, and allow the same to be cleared for home consumption.

Wine not laden, or unladen without permission, liable to confiscation.

CXLVII. If any such wine be not laden on board of the ship for which it was intended, or be unladen from such ship without the permission of the proper Officer of Customs, such wine shall be liable to confiscation.

CXLVIII. Provisions

CXLVIII. Provisions and stores for the use of Her Majesty's Navy shall, in like manner, be passed free of Duty; and where Duties shall have been paid on such provisions and stores, drawback of such Duties, whether of Customs or Excise, shall be allowed on receipt of application in writing from the Officer commanding the ship for which they are intended, or from some other Officer duly authorized to make such application.

Provisions, and stores; for Her Majesty's Navy exempt from Duty.

COASTING TRADE.

CXLIX. No Duties of Customs shall be levied on any goods lawfully carried in any coasting vessel. Provided that nothing in this Section shall apply to Opium, Salt, or Spirits manufactured after the English method; or to goods brought from any Foreign Port or place to any Port in British India, and there trans-shipped for, or thence carried to, any other Port in British India without payment of Duty; or to goods removed in bond.

No Duties on goods carried in coasting vessel.

Proviso.

CL. No drawback shall be allowed for any goods shipped in any coasting vessel; but this shall not interfere with the allowance of drawback for goods duly manifested and exported by Sea to any Foreign Port or place in any Native vessel, other than a coasting vessel.

No drawback for goods shipped in a coasting vessel.

CLI. The local Government, acting under the general instructions of the Government of India, may from time to time determine, by rules to be published in the Official Gazette, on what conditions, and on what conditions only, goods may be carried coastwise, though not shipped at any Port in British India to be so carried; also in what cases, and in what cases only, goods may be shipped in a vessel to be carried coastwise, before all goods brought in such vessel from a Foreign Port or place shall have been unladen. If, in contravention of any such rules so published, any goods shall be taken into or put out of any coasting vessel; or any coasting vessel shall touch at any Foreign Port or place, or deviate from her voyage, unless forced by unavoidable circumstances; or if the Master or Commander of any coasting vessel which shall have touched at a Foreign Port or place shall fail to declare the same in writing to the Officer in

Local Government may regulate carriage of goods coastwise.

Penalty for contravention.

in charge of the Custom House at the Port in British India at which such vessel shall afterwards first arrive, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to pay double Duty upon all goods landed or shipped at such Foreign Port or place, in addition to the ordinary Duty which shall in every case be levied on such goods.

Times and places for shipping of goods.

CLII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall, on any Sunday or on any holiday or day on which the shipping or landing of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be un-shipped from any vessel arriving coastwise, or be shipped, or water-borne to be shipped, for carriage coastwise, at any Port in British India ; nor, except with such written permission, shall any goods be so un-shipped, or shipped, or water-borne to be shipped, on any day except between such hours as the Chief Customs Authority shall from time to time appoint by notice in the Official Gazette ; nor from any place in any such Port except a wharf duly appointed for such purpose ; nor without the presence or authority of the proper Officer of Customs. Any person who shall cause or suffer any goods to be un-shipped, shipped, or water-borne to be shipped, contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding five hundred Rupees; and any goods so unauthorizedly un-shipped, shipped, or removed for shipment, shall be liable to confiscation.

Penalty for contravention.

Rules respecting cargo-book to be kept by Masters of coasting vessels.

CLIII. The Master or Commander of every coasting vessel shall keep, or cause to be kept, a cargo-book in which shall be stated the name of the Master or Commander, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound. At every Port of lading such Master or Commander shall enter, or cause to be entered, in such book the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein, or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him. At every Port of discharge of any such goods, such Master or Commander shall enter, or cause to be entered, in such book the respective days on which such goods

goods or any of them are delivered out of such vessel. The respective times of departure from every Port of lading, and of arrival at every Port of discharge shall in like manner be duly entered. Every such Master or Commander shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein; and if, upon examination, any package entered in the cargo-book as containing Foreign goods, shall be found not to contain such goods, such package, with its contents, shall be liable to confiscation; or if any package shall be found to contain Foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation. If any such Master or Commander shall fail correctly to keep such cargo-book, or to produce the same on demand; or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or if any goods entered as laden and not noted as delivered, be not on board, the Master or Commander of such vessel shall be liable to a penalty not exceeding five hundred Rupees.

Penalty for breach of rules.

CLIV. Before any coasting vessel shall depart from the Port of lading, an account, with a duplicate thereof in the form marked G appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place, shall be filled in and signed by the Master or Commander and delivered to the Officer in charge of the Custom House. Such Officer shall retain the duplicate and return the original account dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods expressed therein. If any such account be false, the Master or Commander shall be liable to a penalty not exceeding five hundred Rupees.

Coasting vessels to deliver account and obtain Port-clearance, before leaving Port of lading.

Penalty in case of account being false.

CLV. The Officer in charge of the Custom House may, on good and sufficient reason, refuse Port-clearance to any vessel declared to be bound to any Port in British India, unless the owner, agent, Master, or Commander shall give a bond with sufficient security for the production to the Officer in charge of the Custom House of a certificate from an Officer of the Port to which such vessel is said to be bound, of her arrival at such Port within a fair and reasonable time to be prescribed in each case by the

Officer in charge of Custom House may require a bond before Port-clearance is granted.

the Officer requiring the bond. On failure to produce such certificate, or to show sufficient reason for its non-production, the parties to the bond shall be bound to pay a penal sum equal to double the amount of Customs Duties which would have been chargeable on the export cargo of the vessel had she been declared to be bound to a Foreign Port.

Penalty for failure to produce certificate.

CLVI. The Chief Customs Authority of any Presidency or place may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the lading and clearance, and for the entry and unlading, of any coasting Steam vessel at any Ports of despatch or destination, or at any intermediate Ports at which she may touch for the purpose of receiving goods or passengers. Any such general pass may be revoked by notice in writing under the hand of the proper Officer, delivered to the Master or Commander, or to the owner of such Steam vessel, or to any of the crew on board.

Grant and revocation of general pass.

CLVII. Within twenty-four hours after the arrival of any coasting vessel at the Port of discharge, and before any goods are unladen therefrom, the pass, with the name of the place or wharf where the cargo is to be discharged noted thereon, shall be delivered to an Officer of the Port, who shall note thereon the date of delivery. Any Master or Commander who shall fail so to deliver a pass within twenty-four hours after arrival, shall be liable to a penalty not exceeding two hundred Rupees.

Time for delivery of pass, and penalty for failure.

CLVIII. If any of the goods on board of any coasting vessel be subject to any Duty of Excise, such goods shall not be unladen without the permission of the proper Officer of Excise.

Goods on coasting vessel, if excisable, not to be unladen without due permission.

CLIX. If, contrary to the provisions of this or any other Act relating to the Customs, any goods shall be laden on board of any vessel in any Port or place in British India and carried coastwise, or any goods which have been brought coastwise shall be unladen in any such Port or place, or any goods shall be found on board of any coasting vessel without being entered in the clearance thereof, such goods shall be liable to confiscation, and the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding five hundred Rupees.

Penalty for breach in respect of lading, carrying coastwise, and unlading.

CLX. Any

CLX. Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unlading, and may demand the production of any document which ought to be on board of any such vessel. The Officer in charge of the Custom House may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection. If the Master or Commander of any such vessel shall refuse to bring any such document to the Officer in charge of the Custom House when so required, such Master or Commander shall be liable to a penalty not exceeding two hundred Rupees

Customs Officers may go on board and examine any coasting vessel.

Penalty for refusal to produce documents.

CARGO BOATS.

CLXI. It shall be lawful for the local Government of any Presidency or place to declare with regard to any Port within its jurisdiction, by Notification in the Official Gazette, that after a stated date no boat which shall not have been duly licensed and registered will be allowed to ply as a cargo-boat for the landing and shipping of merchandize within the limits of such Port. After the issue of such Notification with regard to any Port, any goods found within the limits of such Port on board of any boat not duly licensed and registered shall, unless such goods be covered by a special permit from the Officer in charge of the Custom House, be liable to confiscation.

Local Government may prohibit plying of unlicensed cargo-boats.

Goods found in unlicensed cargo-boats may be confiscated.

CLXII. It shall be lawful for the Chief Officer of Customs of any Port with regard to which a Notification shall have been issued under the last preceding Section, to issue licenses for and to make registration of cargo-boats, under such rules and on payment of such fees as the local Government shall from time to time prescribe. Any table of fees prescribed under this Section shall be published in the Official Gazette.

Issue of licenses.

SPIRITS.

CLXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to prescribe from time to time the conditions on which and the rules under which spirits manufactured in British India after the English method may be removed

Rules for removal of spirits from distillery without payment of Duty, and for exportation thereof.

removed from any licensed distillery for exportation without payment of Duty of Excise. The person so removing any such spirits, shall execute to the Government a bond with one or more sureties, in the form marked H annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe, for the payment of Duty on such portion of the said spirits as shall not be exported within four months from the date of the bond, and upon any portion which shall be exported to any other Port in British India, not being a Free Port, but proof of the landing whereof and of payment of Duty of Customs whereon at the Port of destination shall not be furnished to the satisfaction of the proper Officer within six months from the date of the bond. It shall be lawful for the Chief Officer of Customs of the Port of exportation, to extend for a further term not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits, or for the production of such proof that Duty has been paid.

Spirits for export to be taken direct from Distillery to Custom House under pass.

CLXIV. Spirits for exportation under bond for the Duty of Excise shall be taken from the distillery direct to the Custom House under passes to be granted for that purpose by the Officers of Excise.

Rules to be observed in the exportation of spirits.

CLXV. Spirits brought to the Custom House for exportation by Sea shall, previous to shipment, be gauged and proved by an Officer of Customs. Any drawback to be allowed for spirits on which Duty has been paid shall be regulated by the strength and quantity of such spirits as ascertained by such proof and gauge; and the quantity of spirits for which credit is to be given in the settlement of any bond shall be determined in the same manner.

Duty to be recovered on any deficiency in spirits under bond.

CLXVI. Duty shall be recoverable upon any difference between the quantity of spirits passed from a distillery and the quantity ascertained by gauge and proof at the Custom House, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government and notified in the Official Gazette.

Drawback of Excise Duty on spirits manufactured after the English method.

CLXVII. A drawback of Duty of Excise paid on spirits manufactured in British India after the English method, and exported to any Foreign Port or place under the provisions of Section CXXIV of this Act, shall be allowed by the Officer in charge of the Custom House at the Port of exportation.

Provided

Provided that the exportation be made within one year from the date of payment of such Duty of Excise, and that the spirits, when brought to the Custom House, are accompanied by the pass in which such payment is certified.

No drawback allowed on spirits exported to Indian Ports not being Free Ports, but such spirits may be exported under bond.

CLXVIII. No drawback shall be allowed on spirits exported from any Port in British India to any other Port in British India not being a Free Port. But it shall be lawful, on the conditions and under the rules prescribed from time to time under Section CLXIII of this Act, to export from any such Port to any other such Port, under bond for the duty of Excise, spirits manufactured in British India after the English method. Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the Officer in charge of the Custom House at the Port of importation, testifying to the due entry at such Port of the full quantity of such spirits so exported, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government, and notified in the Official Gazette.

Duty on spirits exported from one Indian Port to another, how to be adjusted.

CLXIX. Spirits manufactured in British India after the English method and exported under bond for the Duty of Excise from any Port in British India to any other Port in British India not being a Free Port, shall be chargeable at the Port of destination with Duties of Customs at the ordinary rate fixed for Duties on spirits of the like kind and strength imported into such Port.

Rum Shrub, &c., how to be charged with Duty.

May be exported under the same rules as spirits.

CLXX. Any Rum Shrub, cordial, and other such liquor prepared in a licensed distillery under supervision of the Surveyor or Officer in charge of the distillery, shall be charged with Duty according to the quantity of spirit used in its preparation as ascertained by such Surveyor or Officer. The provisions of this Act respecting spirits manufactured after the English method, except such as relate to gauge and proof, shall apply to such liquor. When any such liquor is removed for exportation, without payment of Duty of Excise, the bond to be executed by the person removing it shall be in the form marked H annexed to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Spirits intended for exportation may be removed for local consumption.

CLXXI. Spirits brought to the Custom House for exportation under bond for the Duty of Excise may, on payment of such Duty, be removed for local consumption under passes to be granted for that purpose by the Officers of Excise. Credit

for

for every such payment shall be given on settlement of the bond to which it relates.

Conditions of Drawback and remission of Duty on spirits.

Re-land of spirits shipped.

CLXXII. No drawback shall be allowed for any spirits on which Duty has been paid, nor shall the Duty due on any spirits under bond be remitted, unless the spirits shall be shipped from the Custom House, and in a vessel whereon an Officer of Customs has been appointed to superintend the receipt of export cargo. Spirits shipped for exportation shall not be re-landed without a special pass from an Officer of Excise in addition to the usual order of the Officer in charge of the Custom House.

Penalty for irregularly re-landing spirituous liquors.

CLXXIII. Every person who, without a special pass from an Officer of Excise at the place of exportation, re-lands or attempts to re-land any spirituous liquor shipped for exportation, shall for every such offence be liable to a penalty not exceeding five hundred Rupees; and all such liquor, together with every cask or other article containing the same, and every boat, cart, or animal employed in conveying it, shall be liable to confiscation.

AGENTS.

Agents must be duly authorized.

CLXXIV. No person shall act in any Custom House as an Agent for the transaction of any business relating to the entrance or clearance of any vessel, goods, or baggage, unless authorized so to do by the Officer in charge of the Custom House. It shall be lawful for such Officer to require any person so authorized, to give a bond with sufficient securities, in any sum not exceeding five thousand Rupees, for the faithful behaviour of such person, as regards the Custom House Regulations and Officers. Every person who, not being so authorized, shall act as an agent, shall for every such offence be liable to a penalty not exceeding five hundred Rupees.

Penalty for acting without authority.

Agent to produce authority if required.

CLXXV. When any person shall make application to any Officer of Customs to transact any business on behalf of any other person, such Officer may require the person so applying to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse

refuse to transact such business. The clerk or servant or known agent of any person or of any mercantile Firm may transact business at the Custom House, on account of such person or Firm, if such person or a member of such Firm shall identify to the Officer in charge of the Custom House the person so empowered to transact his or their business, and shall deposit with such Officer a written authority duly signed, empowering such Officer to pay to such person all drawbacks, re-funds, and other monies for which he shall produce receipts.

Duplicate Bills of Entry, &c.

Importer or exporter to deliver a duplicate of the bill of entry, or shipping bill, if required.

CLXXVI. Upon the entry or clearance of any goods, for importation or exportation, the importer, exporter, owner, or consignee, or the agent of such importer, exporter, owner, or consignee, shall, if the Officer in charge of the Custom House so require, deliver to such Officer a duplicate of the bill of entry or shipping bill thereof. In such duplicate all sums and numbers may be expressed in figures.

Penalty for non-compliance with the foregoing provision.

CLXXVII. Every importer, exporter, owner, or consignee, and every agent of any such importer, exporter, owner, or consignee, who shall wilfully fail to comply with the provisions of the last preceding Section, shall be liable to a penalty not exceeding two hundred Rupees.

Taking of Samples.

Officer in charge of Custom House may take samples of goods.

CLXXVIII. An Officer in charge of a Custom House may, on the entry or clearance of any goods or at any time while such goods are being passed through the Custom House, take samples of such goods for examination, or for ascertaining the value thereof on which Duties are payable, or for any other necessary purpose. Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to the owner as the Officer in charge of the Custom House shall direct.

Miscellaneous Provisions.

Local Government may, with sanction, fix value of *ad valorem* articles.

CLXXIX. It shall be lawful for the local Government of any Presidency or place, with the sanction of the Governor-General of India in Council, to fix from time to time by notice in the Official Gazette, a value for any article liable to *ad valorem* Duty; and the value so fixed shall, until it is altered by

a similar notice, be taken to be the value of such article for the purpose of levying Duty on the same.

Assessment of goods liable to Duty according to value.

CLXXX. In all cases in which goods are liable to Duty according to the value thereof, and in which no value shall have been fixed by a general tariff or under the last preceding Section, the value shall be assessed at the wholesale cash price, less trade discount, for which goods of the like kind and quality are sold, or are capable of being sold at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the Duties payable on the importation thereof shall amount to.

Expense of piling &c. timber chargeable by measurement, by whom to be borne. No allowance for interstices.

CLXXXI. Any person entering any timber or wood chargeable with Duty by measurement, shall, at his own expense, pile, sort, frame, or otherwise place the same in such manner as the Officer in charge of the Custom House shall deem necessary to enable the Officers of Customs to measure and take account thereof. In all cases in which timber or wood is measured in bulk, the measurement shall be taken to the full extent of the pile, and no allowance shall be made by the Officers on account of interstices.

Trans-shipment of stores from one vessel to another of the same owner without payment of Duty.

CLXXXII. If two or more vessels belonging to the same owner be at any Port in British India at the same time, any articles of Marine Stores in use or ordinarily shipped for use on board may, at the discretion of the Officer in charge of the Custom House, be trans-shipped from one such vessel to any other such vessel without payment of import Duty.

Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported Duty free on certain conditions.

CLXXXIII. Provisions and other such Ship's Stores warehoused at the time of importation, may be exported without payment of Duty for use and consumption on board of any vessel proceeding to a Foreign Port or place. Articles of Indian produce or manufacture, including rum, required for use on board of any vessel proceeding to any Foreign Port or place, may also be exported free of Duty, whether of Customs or Excise, in such quantities as the Officer in charge of the Custom House shall determine, with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart. Provided that no such rum

rum shall be shipped as stores free of Duty on any vessel not going to a Foreign Port or place, or going on a voyage of less than thirty days' probable duration.

In case of dispute the Duty to be deposited pending orders of Chief Customs Authority.

CLXXXIV. If any dispute shall arise as to the proper rate of Duty payable in respect of any goods imported into, or exported from any Port in British India, the importer, exporter, owner, or consignee of such goods, or his agent, shall deposit in the hands of the Officer in charge of the Custom House at the Port of importation or exportation respectively, the amount of Duty demanded by such Officer, pending the decision of the Chief Customs Authority. Upon payment of such deposit and compliance with the provisions of this Act relating to the entry of such goods, the Officer in charge of the Custom House shall cause the goods to be delivered to such importer, exporter, owner, or consignee, or his agent.

Payment of Duties short-levied or erroneously refunded.

CLXXXV. When Duty or other Customs dues or charges have been short-levied through inadvertence, error, or mis-construction on the part of the Officers of Customs; or when Duty, after having been levied, has been erroneously refunded, the person chargeable with the Duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the first assessment, or making of the refund; and it shall be lawful for the Officers of Customs to refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

No refund of charges erroneously levied or paid, unless application be made within six months.

CLXXXVI. No Duty or other Customs dues or charges which shall have been charged and paid, and of which, or of a portion of which, repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within six months from the date of such payment.

Importer and exporter to pay expense incidental to compliance with Custom House rules.

CLXXXVII. The un-shipping, carrying, shipping, and landing of all goods, and the bringing of them to the proper place for examination or weihging, and the putting of them into and out of the scales, and the opening, un-packing, bulking, sorting, lotting, marking, and numbering of goods, where such operations are

 necessary

necessary or permitted, and the removing of goods to, and the placing of them in, the proper place of deposit, shall be performed by or at the expense of the importer, exporter, owner, or consignee of such goods.

No compensation for loss or injury except on proof of wilful neglect.

CLXXXVIII. No importer, exporter, owner, or consignee of goods shall be entitled to claim from any Officer of Customs compensation for any loss or injury that may occur to such goods at any time while they remain or are lawfully detained in any Custom-House, or on any Custom House Wharf, or under charge of any Officer of Customs, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of an Officer of Customs.

Rates of wharfage fees to be fixed by the Chief Customs Authority.

CLXXXIX. The Chief Customs Authority of any Presidency or place may from time to time fix the rate to be charged on goods left on any Custom House Wharf or other authorized landing place, or part of the Custom House premises, for a period exceeding that prescribed by such Chief Customs Authority.

Saving of anchorage and harbour dues, also special dues on opium, tobacco, ganja, spirits, and salt.

CXC. Nothing contained in this Act shall be construed to prevent the levy of any anchorage or harbour dues now leviable at any Port in British India, or the levy of any special Duties on Opium, Tobacco, Ganja, Spirits, or Salt, under any law which is or shall be in force in any part of British India.

Duplicates may be granted and amendments made on payment of fee.

CXCI. A Duplicate of any certificate, Manifest, Bill, or other Custom House document may, on payment of a fee of not less than one Rupee and not more than ten Rupees, be furnished, at the discretion of the Officer in charge of the Custom House, if he is satisfied that no fraud has been committed or is intended. The Officer in charge of the Custom House may also authorize any amendment to be made in any document, after it has been entered and recorded in the Custom House, upon payment of a like fee for every document so amended.

Customs Officers may be exempted from service on any jury or inquest.

CXCII. No Commissioner or Collector of Customs, or Officer of Customs whom a Commissioner or Collector of Customs shall deem it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

OFFENCES AND PENALTIES.

Penalty for Commanders of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.

CXCIII. If any goods be put on board of any tug-steamer or pilot-vessel from any Sea-going vessel inward bound, or if any goods be put out of any tug-steamer or pilot-vessel for the purpose of being put on board of any outward bound vessel, or if any goods on which drawback shall have been granted shall be put on board of any tug-steamer or pilot-vessel for the purpose of being re-landed without the authority of the Officers of Customs, such goods shall be liable to confiscation, and the Master or Commander of such tug-steamer or pilot-vessel shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for shipping, landing, concealing &c., contrary to Act.

CXCIV. Any person shipping or landing goods, or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act; and any person who shall be found to have been on board of any vessel liable to confiscation under Section XIII of this Act, while such vessel was within any bay, river, creek, or arm of the Sea which had not then been declared to be and was not then existing as, a Port for the landing or shipment of goods, shall be liable to a penalty not exceeding one thousand Rupees.

Vessels in Port with a cargo and afterwards found in ballast, and cargo unaccounted for, liable to confiscation.

CXCV. If any vessel which shall have been within the limits of any Port in British India with cargo on board, be afterwards found in any Port, bay, river, creek, or arm of the Sea in British India, light or in ballast, and if the Master or Commander be unable to give a due account of the Port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

Tackle &c., and packages and contents included in confiscation of vessels and goods. Also conveyances used in removal.

CXCVI. The confiscation of any vessel shall be deemed to include her tackle, apparel, and furniture. The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof. Every boat, cart, or other means of conveyance, and every horse or other animal used in the removal

removal of any goods liable to confiscation, shall in like manner be liable to confiscation.

Goods may be detained, and Port-clearance refused pending the payment of fines incurred.

CXCVII. If any person in charge of or owning a vessel shall have become liable to any fine or penalty on account of any act or omission relating to the Customs, the Officer in charge of the Custom House may refuse Port-clearance to such vessel until the fine or penalty be discharged. If any person passing goods through the Custom House shall have become liable to any fine or penalty, the Officer in charge of. the Custom House may detain such goods until the fine or penalty be discharged.

Persons reasonably suspected may be detained.

CXCVIII. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the Customs, may be detained by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels, goods, and persons may be seized or detained.

CXCIX. Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the Customs, may be detained in any place, either upon land or water, by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels and goods seized how to be dealt with.

CC. Every vessel, and all goods seized on the ground that they are liable to confiscation, shall, as soon as conveniently may be, be delivered into the care of the Officer appointed to receive the same. If there be no such Officer at hand, all goods so seized shall be carried to and deposited at the Custom House nearest to the place of seizure. If there be no Custom House within a convenient distance, such goods shall be deposited at the nearest Office appointed by the Chief Customs' Authority of the Presidency or place for the deposit of goods so seized.

Persons detained to be taken to nearest Magistrate or Officer of Custom House.

CCI. Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the Customs, shall forthwith be taken before the nearest Magistrate or Officer in charge of a Custom House.

CCII. When

Persons taken before a Justice for offence under Customs Acts may be detained or admitted to bail.

CCII. When any person, detained on the ground that he has been guilty of an offence against this or any other Act relating to the Customs, shall be taken before a Magistrate, such Magistrate may, if he see reasonable cause, order such person to be detained in gaol or in the custody of the Police for such time as shall be necessary to enable such Magistrate to communicate with the Officers of Customs. Provided that any person so detained shall be liberated on giving recognizance or security to the satisfaction of the Magistrate to appear at such time and place as shall be appointed by such Magistrate for his appearance.

Any person escaping may be afterwards detained.

CCIII. If any person liable to be detained under this or any other Act relating to the Customs, shall not be detained at the time of committing the offence for which he is so liable, or shall, after detention, make his escape, such person shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

Persons in Her Majesty's Navy when detained, to be secured on board until warrant procured.

CCIV. When any person employed on the crew of any of Her Majesty's ships, shall be detained under this or any other Act relating to the Customs, the detaining Officer shall forthwith give notice thereof to the Commanding Officer of the ship, who shall thereupon place such person in security on board of such ship, until the detaining Officer shall have obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law. A Magistrate shall duly grant a warrant upon complaint made to him by the detaining Officer, stating the offence for which the person is detained.

When seizure is made, seizing Officer to give reason in writing.

CCV. When any vessel or goods shall be seized or any person shall be detained under this or any other Act relating to the Customs, it shall be the duty of the Officer or other person making such seizure or detention, on demand of the person in charge of the vessel or goods so seized, or of the person so detained, to give to such person a statement in writing of the reason for such seizure or detention.

CCVI. When

CCVI. When any goods liable to confiscation under this or any other Act relating to the Customs, shall be seized by any Police Officer on suspicion that they had been stolen, it shall be lawful for such Officer to carry such goods to any Police Station or Court at which a complaint or information connected with the stealing or receiving of such goods shall have been made, or an enquiry connected with such stealing or receiving shall be in progress, and there to detain such goods until the dismissal of such complaint or information, or the conclusion of such enquiry or of any trial thence resulting. In every such case the Police Officer who seized the goods shall send written notice of their seizure and detention to the nearest Custom House; and immediately after the dismissal of the complaint or information, or the conclusion of the enquiry or trial, the said Police Officer shall cause such goods to be conveyed to and deposited at the nearest Custom House, to be there proceeded against according to law. If any Police Officer, whose duty it is, under this Section, to send a written notice or cause goods to be conveyed to a Custom House, shall neglect so to do, such Officer shall be liable to a penalty not exceeding one hundred Rupees.

Procedure in respect of goods seized on suspicion.

Penalty for neglect of Police Officer to give notice.

CCVII. Any duly empowered Officer of Customs or other person duly employed for the prevention of smuggling, may search any cart, or other means of conveyance, for smuggled goods; provided that such Officer shall have reasonable ground to suppose that smuggled goods are contained therein.

Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion

CCVIII. It shall be lawful for the Magistrate of a District, or Division of a District, on application by an Officer in charge of a Custom House, stating his belief that dutiable or prohibited goods are secreted in any place in such District or Division, to issue a warrant to search for such goods. Such warrant shall be executed in the same way, and shall have the same effect, as a search warrant issued under the Code of Criminal Procedure.

Magistrate of District may issue search warrant on application.

CCIX. Any Officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in any Port in British India, or any person who shall have landed from any vessel or boat. Provided that such Officer shall have reasonable ground to suppose that such

Persons may be searched on reasonable suspicion.

such person has dutiable or prohibited goods secreted about his person. If any person on board of any such vessel or boat, or who may have landed from any such vessel or boat, shall, upon being asked by any such Officer whether he has dutiable or prohibited goods about his person or in his possession, affirm that he has not, and if any such goods shall, after such denial, be discovered to be or to have been upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.

Penalty for possession of smuggled goods.

CCX. When any Officer of Customs is about to search any person under the provisions of the last preceding Section, such person may require the said Officer to take him, previous to search, before the nearest Magistrate or Officer in charge of a Custom House. If such requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Officer in charge of a Custom House. The Magistrate or Officer in charge of a Custom House before whom any person shall be so brought, shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made. A female shall not be searched by any but a female.

Persons before search may require to be taken before a Magistrate, &c.

CCXI. If any Officer of Customs shall require any person to be searched, for dutiable or prohibited goods, without having reasonable ground to believe that he has such goods about his person, such Officer shall be liable to a penalty not exceeding one hundred Rupees.

Penalty for searching persons on insufficient grounds.

CCXII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall be guilty of a wilful breach of the provisions of this or any other Act relating to the Customs, such Officer or person shall on conviction before a Magistrate be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.

Customs Officers, if guilty of breach of duty, how punishable.

CCXIII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall practise or attempt to practise any fraud for the purpose of injuring the Customs Revenue, or shall abet or connive at any such fraud or any attempt

Customs Officers committing, or conniving at frauds how punishable.

attempt to practise any such fraud, such Officer or other person shall on conviction before a Magistrate be liable to imprisonment of either description for any term not exceeding two years, or to fine, or to both.

No suit or proceeding to be commenced without notice, or after stated interval.

CCXIV. No suit, action, or other proceeding shall be commenced against any person for any thing done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit, action, or other proceeding and of the cause thereof, nor after the expiration of three months from the accrual of the cause of suit, action, or other proceeding.

Punishment for obstruction to Customs Officers.

CCXV. Whoever intentionally obstructs any Officer of Customs or other person duly employed for the prevention of smuggling in the exercise of any powers given under this Act to such Officer or person, shall on conviction before a Magistrate be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding one thousand Rupees, or to both.

Penalty for making false declaration, refusing to answer questions, &c.

CCXVI. If any person shall knowingly make or sign any declaration or document used in the transaction of any business relating to the Customs, such declaration or document being false in any particular; or if any person shall counterfeit, falsify, or fraudulently alter or destroy any such document, or any seal, signature, initials, or other mark made or impressed by any Officer of Customs in the transaction of any business relating to the Customs; or if any person required under this or any other Act relating to the Customs to produce any document shall refuse or neglect to produce such document; or if any person required under this or any other Act relating to the Customs to answer any question put to him by an Officer of Customs shall not truly answer such question, such person shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand Rupees.

Penalty for un-authorized declaration to value of goods.

CCXVII. Any person subscribing or attesting any declaration of the value of any goods upon an application to pass such goods through the Custom House, shall, if he be not the importer, owner, or consignee of such goods, or have not proper and sufficient authority from the importer, owner, or consignee, be liable in every such case to a penalty not exceeding one thousand Rupees.

CCXVIII. In

Officer in charge of Custom House may adjudge confiscations, and penalties.

CCXVIII. In every case in which, under this Act, any vessel, cart, or other means of conveyance or any horse or other animal is liable to confiscation; or any goods are liable to confiscation or to increased rates of Duty; or any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the Custom House, is liable to a penalty, an Officer in charge of a Custom House may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation, penalty, or increased rates of Duty.

Local Government may confer like powers on other Officers of Customs.

CCXIX. In respect to cases cognizable under the last preceding Section by an Officer in charge of a Custom House, the local Government may empower any Officer of Customs in like manner to adjudge any confiscation, penalty, or increased rates of Duty. Provided that the power to adjudge confiscation shall not extend, as regards a Deputy Collector, to goods of a greater value than one thousand Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to goods of a greater value than one hundred Rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector to a sum exceeding fifty Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to a sum exceeding ten Rupees.

Proviso.

Appeal from Subordinate to Chief Customs Authority.

CCXX. In any case adjudicated by an Officer of Customs, any party aggrieved by the award may appeal to the Chief Customs Authority of the Presidency or place, or to any superior Officer of Customs empowered in that behalf by the local Government. It shall thereupon be lawful for such authority or superior Officer to make such further enquiry, and to pass such order as he shall think proper, confirming, altering, or annulling the original award. Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty, or rates of Duty than shall have been adjudged against him in the original award.

Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

CCXXI. The award of any confiscation, penalty, or increased rates of Duty under this Act by an Officer of Customs shall not interfere with any punishment to which the person affected thereby shall be liable under any other law.

CCXXII. All

Offences not specially provided for how to be adjudicated.

CCXXII. All offences against this Act, other than those cognizable under Section CCXVIII of this Act by an Officer in charge of a Custom House, may be adjudicated in a summary manner by a Magistrate.

Penalty adjudged by Magistrate, &c. may be remitted or commuted by Chief Customs Authority.

CCXXIII. If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act, by an Officer of Customs or by a Magistrate, the Chief Customs Authority of the Presidency or place shall be of opinion that such penalty or confiscation ought to be remitted in whole or in part, or commuted, such Chief Customs Authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

How payment of penalty to be enforced.

CCXXIV. When a penalty is adjudged against any person under this Act by any Officer of Customs, it shall be lawful for such Officer, if the penalty be not paid, to levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other Officer of Customs. When an Officer of Customs, who has adjudged a penalty against any person under this Act, shall fail to realize the unpaid amount of such penalty from the goods of such person, it shall be lawful for such Officer to notify in writing to any Magistrate within whose jurisdiction such person or any goods belonging to such person shall be, the name and residence of the said person and the amount of penalty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.

CCXXV. When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the following limits, a period of imprisonment in default of payment of such penalty or fine :—

If the penalty or fine do not exceed fifty Rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month.

If the penalty or fine do not exceed one hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months.

If

If the penalty or fine do not exceed five hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

When the penalty or fine exceeds five hundred Rupees, the term of imprisonment to be fixed in default of payment may extend to six months.

It shall be lawful for the Magistrate at any time to enforce payment of any penalty or fine or of any portion thereof by distress and sale of the goods of the defaulter.

Imprisonment to terminate upon payment of the fine.

CCXXVI. The imprisonment which is imposed in default of payment of fine or penalty under this or any other Act relating to the Customs shall terminate whenever that fine or penalty is either paid or levied by process of law.

Or upon payment of proportional part of fine.

CCXXVII. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine or penalty be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

On confiscation of vessel or goods, property to vest in Her Majesty.

CCXXVIII. When the confiscation of any vessel, cart, or other means of conveyance, horse or other animal, or any goods, shall be adjudged under Section CCXVIII or Section CCXIX of this Act, the property in such vessel, means of conveyance, animal, or goods shall thereupon vest in Her Majesty. It shall be the duty of the Officer adjudging confiscation to take and hold possession of the same, and it shall be the duty of every Officer of Police, on the requisition of such Officer, to assist him in taking and holding such possession.

Appropriation of penalties, &c., and grant of rewards.

CCXXIX. The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a General Fund, out of which it shall be lawful for the Chief Customs Authority of the Presidency or place to grant a reward to any person by whose information, assistance, or instrumentality, any seizure shall have been made or any offence punished.

Commencement of Act.

CCXXX. This Act shall come into operation on the 1st day of May 1863.

ACT No. VI OF 1863.

A.

FORM OF APPLICATION FOR A LICENSE FOR PRIVATE WAREHOUSE.

(See Section LXXIV)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to comply with my request to be furnished with a license under Act VI of 1863 for a warehouse situated at and about the distance of from the Custom House. The dimensions and other particulars of the godown are stated below. It is intended for the reception of all goods, as a general store-house—(*or as the case may be*).—The period of license not to exceed—(*mention the time for which required*).

Particulars of Godown.

				Feet—Inches	
Length	...	...	..		Dry, airy, well flued and puckah built ; can contain with perfect safety and convenience tons of goods (—*as the case may be.*—)
Breadth	...	...	...		
Height	...	...	...		

This godown is my own property—(*or the property of* ,—*from whom I have engaged the same on a lease of*)

(*Signed*) (

Name of Applicant.

Place

Date

B.

ACT No. VI of 1863.

B.

FORM OF APPLICATION TO WAREHOUSE GOODS.

(See Section LXXV.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to order the reception into the public warehouse (*or the private warehouse*,—of Mr. A. B., situate at and licensed by No. dated) of the undermentioned goods, arrived from—(*Port or place to be mentioned*)—on the—(*British or other*)—ship whereof is Commander.

The Duty upon these goods has been adjusted in the manner specified below :—

Marks and numbers of packages.	Description of packages and goods.	Details of goods.	Rate of value of goods.	Amount of value of the goods as ascertained and entered on the landing of the same.	Rate of Customs Duty.	Date and No. of importation.	Specification of the particulars of bonds if the Duty upon goods has been bonded.
1.	2.	3.	4.	5.	6.	7.	8.

(*Signed*) ( )

Name of owner, agent, or consignee of goods.

Place

Date

C.

ACT No. VI OF 1863.

C.

FORM OF BOND FOR IMPORT DUTY.

(See Sections LXXVII and LXXVIII.)

BOND

NO. 18

We, A. B., now of ; and C. D, of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in the sum of Government Rupees to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that, in case of dispute touching the matter of this obligation or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals (*date*)

(Signed)

The above bounden having applied to the Officer in charge of the Custom House at for and obtained permission to lodge in the warehouse for a period of the following goods, that is to say— imported by Sea from on board of the ship and entered in the Custom House Books as No. of the Register of Goods imported by Sea ;

The condition of this Bond is, that;

If the their heirs, or representatives, shall observe all the rules prescribed in Act No. VI of 1863 to be observed by owners, importers, or

or consignees of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof;

And if the said their heirs, or representatives, shall pay to the Officer in charge of the Custom House at the Port of all dues, whether of Customs, warehouse dues, or lawful charges which shall be demandable on the said goods, or on account of penalties incurred in respect to them, within

from the date of this Bond, or within such further time as the Chief Customs Authority of shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said Officer in charge of the Custom House;

And if, within the term so fixed, or enlarged, the said goods or any portion thereof having been removed from the said warehouse for home consumption or re-exportation by Sea, the full amount of all Customs Duties, warehouse dues, lawful charges, and penalties demandable as aforesaid shall have been first paid on the whole of the said goods;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in full force.

Sealed with our seals, (*date*

(Signed) (

D.

FORM OF APPLICATION TO REMOVE GOODS FROM WAREHOUSE.

(See Section XCIX.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

SIR,

PLEASE to order to be passed from the public warehouse (*or private warehouse*,—of Messrs. A. & Co. situate at and licensed under Act VI of 1863 by No. dated) the undermentioned goods intended for exportation by Sea on the ship whereof is Commander and which is bound to—(*or for internal consumption*)—the same having been entered in the books of your Office for the said warehouse, under No. dated by me—(*or by Messrs. B. & Co—in the latter case add*—whose certificate of the transfer of the goods is herewith annexed.)

Marks and No. of cases, B. and Co., (*Name of the goods*) No. 1 to 4, □ × ✓ Sealed, Warehoused for exportation,	Four cases of—(*name of goods*)—1 case,—(*box, bale, or parcel,*)—containing—(*here insert the quantity in each case.*) 1 Ditto. 1 Ditto. 1 Ditto. Four cases,—(*boxes, bales, or parcels*)—containing (—*total contents to be here stated.*—)

The Custom House value of the above is Government Rupees

(*Signed*) ( )

Name of owner, agent, or consignee of goods.

Place

Date

E.

FORM OF APPLICATION TO REMOVE GOODS FROM ONE WAREHOUSE TO ANOTHER.

(See Section CV.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to permit the removal of the undermentioned goods from the public —(*or private*)—warehouse—(*describe the warehouse*)—to—(*the warehouse into which*

which the removal is intended to be made must here be distinctly described)—for the unexpired period of warehousing remaining in respect to the goods, the same having been originally entered by virtue of Act VI of 1863 in the books of the warehousing department, No. dated for fifteen months—(*or such other period as may have been allowed*)—under the obligations and conditions at present attached to the goods.

Marks and numbers of packages.	Description of packages and of goods.	Contents of packages.	Rate of value of goods.	Amount of value of goods as entered in Custom House books.	Rate of Duty chargeable or paid upon the goods.	Name of the Persons by whom goods first passed into warehouse.
1.	2.	3.	4.	5.	6.	7.

NOTE.—*If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application.*

(Signed) ( )

Name of owner, agent, or consignee of goods.

Place

Date

F.

FORM OF SHIPPING BILL—*(See Section CXXIII.)*

Shipping Bill.
1. Warehouse or drawback goods.
2. Foreign goods not for drawback.
3. Goods exported under special rule of restriction.
4. Country goods subject to Duty.
5. Country goods not subject to Duty.

(State, as described, the class to which the goods to be exported belong.)

Ship's name.	Whether British or Foreign; if Foreign, the Country.	Master's name.	Port or place of destination.	Marks.	Numbers.	Description of Packages.	Quantity, Quality, and Description of goods.	Rate of value for Duty	Total value for Duty.	Declared real value under Section XXVI.	REMARKS.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.

Here state particulars according to the above headings.

I claim drawback on

Here state quantity and description in words, at length, of any goods in respect of which drawback is claimed, and number in register of Custom House.

I declare the value of the goods above described to be

( )

Name of Exporter or Agent.

( )

Name of Officer in charge of Custom House.

Dated *day of*

G.

FORM OF COASTING PASS—*(See Section CLIV.)*

Port of

Ship's name.	Tonnage.	Port of Registry.	Master's name.	Whither bound.	Foreign goods, duty paid.	Warehoused goods removed in bond.	Country goods.	Restricted goods and goods liable to duty of excise.
1.	2.	3.	4.	5.	6.	7.	8.	9.

Here state the particulars according to the above Headings.

Cleared the *day of* 18

(Signed) ( )

Officer in charge of Custom House.

(Signed) ( )

Name of Master.

H.

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(See Section CLXIII.)

We

are jointly and severally bound to Her Majesty's Secretary of State for India, in the sum of Government Rupees to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals, dated this day of 18

(*Signed*)

( )

The above bounden being indebted to Her Majesty's Secretary of State for India in the sum of Government Rupees being the amount of Duty payable at the rate of Rupees per Imperial gallon London proof, for gallons of (*or for gallons of proof spirit used in the preparation of dozens of bottles or gallons of cordials and liquors as specified in the annexed Schedule*)—manufactured at which the said have been allowed to remove thence for exportation by Sea, subject to the provisions of Act VI of 1863 without having paid such Duty.

The condition of this obligation is, that, if the above bounden their heirs, or representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State Duty at the rate of Rupee per Imperial gallon of proof spirits for all or any portion of the above-mentioned, which shall not have been then exported by Sea, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment of Duty, then this Bond shall be void; otherwise the same shall remain in full force.

Sealed and delivered in the presence of

Place

ACT No. VI OF 1863.

Place

Date

(If the bond be for cordials and other liquors under Section CLXX, add Schedule.

Description of cordials and liquors	Quantity in bottles or gallons.	Quantity of proof spirit.
1.	2	3.

Printed at the Military Orphan Press —R. No 91 —2-3-63—1000

ACT No. VII OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 4th February 1863.)

An Act relating to the Emigration of Native Laborers to the Danish Colony of Saint Croix.

Preamble.

WHEREAS it is expedient to render lawful the emigration of laborers, being Native inhabitants of British India, to the Danish Colony of Saint Croix, and to extend the provisions of Act XXXI of 1855 (*relating to the emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada*) to the emigration of Native Inhabitants of British India who may emigrate to Saint Croix; It is enacted as follows :—

Act repealed

I. Act XIV of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India, any contract for labor to be performed in the Danish Colony of Saint Croix, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colony, is repealed.

Act XXXI of 1855 extended.

II. All the provisions of Act XXXI of 1855, and of the Schedule thereto as modified by Act XLIX of 1860 (*relating to Vessels carrying emigrant Passengers to the British Colonies*) shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to the Danish Colony of Saint Croix, and that Act shall be read as if the words "or the Danish Colony of Saint Croix" had been inserted therein after the words "Saint Lucia and Grenada," or "Saint Lucia or Grenada," wherever those words occur in the said Act.

PRICE 1 ANNA.

III. This Act shall take effect as to the said Colony of Saint Croix from the day when the Governor-General of India in Council shall notify in the Calcutta Gazette that such Regulations have been provided and such measures taken as the Governor-General in Council deems necessary for the protection of such emigrants during their residence in the said Colony of Saint Croix and in respect of their return to India.

Commencement of Act.

IV. All the provisions of Act XIX of 1856 (*to enable the Governor-General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers*) shall apply to Emigration to the said Colony of Saint Croix.

Act XIX of 1856 to apply to Emigration to St. Croix.

Printed at the Military Orphan Press.—R No. 118,—5-2-68.

BENGAL SECRETARIAT LIBRARY

ACT No. VIII of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd February 1863.)

An Act for the amendment of the law relating to the confinement of Prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of Prisoners convicted of offences in Native States.

Preamble.

WHEREAS it is desirable to amend the law relating to the confinement of Prisoners who have been sentenced by Courts acting under the authority of Her Majesty, or of the Government of India, or of any Local Government; and whereas it is expedient to make the same provision for the secure custody of persons convicted of participation in the offence of Suttee (burning alive) or Sumadh (burying alive) and of such other offences as the Governor-General in Council shall from time to time, by an order to be published in the Government Gazette, think fit to prescribe, within the Territories of Native Princes or States in alliance with Her Majesty as is already made in regard to persons convicted of Thuggee or Dacoity in such States; It is enacted as follows :—

Repeal of Regulation and Acts.

I. Regulation IX of 1833 of the Bombay Code (*to provide for the reception in the Jails under that Presidency of Prisoners sentenced by Courts of Justice or Tribunals acting under British Superintendence other than those provided for in the existing Regulations*), Act XVIII of 1843 (*for the better custody of persons convicted of Thuggee and Dacoity*), and Act V of 1847 (*to facilitate the execution of the sentences of Courts established by the authority of the Governor-General in Council for the administration of Criminal Justice in States or Territories administered by Officers acting under the authority of the East India Company*) are hereby repealed.

II. Officers

PRICE ONE ANNA.

II. Officers in charge of Jails within the British Territories in India shall be competent to give effect to any sentence which shall be passed by any Court or Tribunal acting under the authority of Her Majesty, or of the Government of India, or of any Local Government, although such Court be not situate in a place not subject to the general Regulations. Provided that this Section shall not apply to any Officer in charge of any Jail or House of Correction within the local limits of the ordinary original Civil Jurisdiction of any Court established by Royal Charter.

Officers in charge of Jails may give effect to sentences passed by certain Courts.

Proviso.

III. A warrant under the official signature of an Officer of the Court or Tribunal as aforesaid shall be sufficient authority for holding any prisoner in confinement, or for transmitting any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

Warrant of Officer of such Court to be sufficient authority.

IV. It shall be lawful for the Executive Government of any part of the British Territories in India, to authorize the reception, detention, or imprisonment in any part of those Territories, for the periods specified in their respective sentences, of persons sentenced within the Territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for the offence of Thuggee or Dacoity, or the offence of belonging to any gang of Thugs or Dacoits, or for participation in the offence of Suttee or Sumadh, or for such other offences as the Governor-General in Council shall from time to time, by an order published in the Government Gazette, think fit to prescribe. Provided always that such sentences shall have been pronounced after trial before a Tribunal in which an Officer of Government, duly authorized in that behalf by such Prince or State, shall be one of the presiding Judges. Every Officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation may be carried into effect.

Executive Government may authorize reception, detention, or imprisonment in British India of persons convicted of certain offences in Native States.

Proviso.

V. If

Procedure of Officer in charge of Jail if he doubt the legality of any warrant sent to him for execution.

V. If any Officer in charge of a Jail shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose official seal and signature may be affixed thereto to pass the sentence and issue such warrant, such Officer shall refer the matter to the Government to which he is subject, by whose order on the case such Officer and all other public Officers shall be guided as to the future disposal of the prisoner. Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

Provisions of existing Acts, &c., relating to the treatment and security of prisoners generally, to apply to prisoners confined under this Act.

VI. The provisions of the existing Acts and Regulations, and all other rules in force for the treatment and security of prisoners confined in the said Jails, shall apply and be of equal force and effect in the case of prisoners confined therein under this Act as in the case of other prisoners confined therein.

Bengal Printing Company Limited.

ACT No. IX of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 23rd February* 1863.)

An Act to amend the Code of Civil Procedure.

Preamble.

WHEREAS the Code of Civil Procedure requires that appeals from decisions or orders to the Sudder Court shall ordinarily be heard and determined by two or more Judges of the said Court; and whereas in the Territories, not subject to the general Regulations, the highest Civil Courts of Appeal, which are declared by Section 386 of Act VIII of 1859 to be included in the expression "Sudder Court" in any part of the said Territories to which the said Code may be extended, generally consist of only a single Judge, and it is expedient to make provision for the powers to be exercised by such single Judge in hearing appeals from decisions and orders, or in proceedings relating to any other matter which may be brought before him; It is enacted as follows :—

In certain places the highest Civil Court of Appeal to have powers of Sudder Court.

I. When in any part of the British Territories in India to which the Code of Civil Procedure has been or shall be extended under the provisions of Section 385 of the said Code, the highest Civil Court of Appeal consists of a single Judge, such Judge shall have all the powers vested by such Code in two or more Judges of the Sudder Court.

No order or proceeding of such Court to be void because passed or held by a single Judge.

II. No order passed by or proceeding held before the single Judge of any such highest Civil Court of Appeal, subsequent to the extension of the Code of Civil Procedure to such part of the British Territories in India, shall be deemed invalid or be liable to be questioned on the ground that such order or proceeding was passed by or held before a single Judge.

PRICE ONE ANNA.

Bengal Printing Company Limited.

ACT No. X of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 23*rd February* 1863.)

An Act to improve the Administration of Justice in the District of Darjeeling.

Preamble.

WHEREAS it is expedient to improve the Administration of Justice in the District of Darjeeling; It is enacted as follows :—

No appeal from decisions in suits of the nature cognizable in Small Cause Courts, under Act XLII of 1860.

I. Every decision or order passed by the Superintendent of the District of Darjeeling in suits of the nature cognizable in Courts of Small Causes under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), or by the Judge of any Court constituted in the said District under the said Act shall be final, and no appeal shall lie from such decision or order. Provided that it shall be competent to the Superintendent, or Judge of any such Court as aforesaid, if he shall think fit, to grant a new trial, if applied for within the period of thirty days from the date of the decision; but no new trial shall be granted unless the party applying for the same shall, with his application, deposit the amount for which judgment shall have been given against him, including the costs (if any) of the opposite party.

Proviso.

In case of doubt as to question of Law, &c., statement of case may be submitted for decision of High Court.

II. If in the trial of any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision shall arise on which the Superintendent or Judge of any Court constituted as aforesaid shall entertain reasonable doubt, the Superintendent

PRICE ONE ANNA.

intendent or Judge as aforesaid may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it with his own opinion for the decision of the High Court.

And decree may be passed contingent thereon, but pending receipt, execution not to issue.

III. The Superintendent or Judge as aforesaid may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court until the receipt of the order of that Court.

Full bench of the High Court to decide cases referred under this Act.

IV. Cases referred for the opinion of the High Court shall be dealt with by two or more Judges of that Court.

High Court to fix an early day for the hearing of the case.

Proclamation thereof.

V. The High Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court House of that Court.

Parties may appear and be heard in person or by pleader.

VI. The parties to the case may appear and be heard in the High Court in person or by pleader.

Decision of High Court how to be transmitted.

VII. The High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the Register, to the Superintendent or Judge as aforesaid, and the Superintendent or Judge as aforesaid shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

VIII. Costs, if any, consequent on the reference of a case for the opinion of the High Court shall be costs in the suit.

IX. In

IX. In all suits other than those mentioned in Section I of this Act, in which the amount or value of the suit shall not exceed Rupees five thousand, an appeal from the decision of the Superintendent, or of any other Court which is or hereafter may be established in the said District of Darjeeling shall lie to the Judge of Dinagepore, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

In suits other than those referred to in Section I, and of an amount or value not exceeding 5,000 Rupees, a regular appeal to lie.

X. A special appeal shall lie to the High Court of Judicature at Fort William from all decisions passed in regular appeal by such Judge, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and upon no other ground, and such special appeal shall be subject to the rules contained in the Code of Civil Procedure regarding special appeals.

Special appeal to High Court in certain cases.

XI. In all suits heard and determined by the Superintendent, or by any other Court which is or hereafter may be established in the said District of Darjeeling in which the amount or value of the suit shall exceed Rupees five thousand, an appeal shall lie to the said High Court, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

In suits above 5,000 Rupees regular appeal to lie to High Court.

XII. When a commitment in a case triable under the Code of Criminal Procedure by a Court of Sessions is made by the said Superintendent, or by any other Officer in such District competent to make commitments to the Court of Sessions, such commitment shall be made to the Sessions Judge of Dinagepore, and shall be heard and determined by him.

Provision for cases triable by Court of Sessions under Code of Criminal Procedure.

XIII. Appeals from sentences and orders passed by the said Superintendent or by any Officer subordinate to him from which an appeal is allowed under the Code of Criminal Procedure shall lie to the Sessions Judge of Dinagepore, and shall be heard and determined by him.

Appeals from sentences, &c., of Superintendent and his subordinates.

XIV. The

Powers of High Court in respect of sentence, &c., of Sessions Judge under this Act.

XIV. The High Court of Judicature at Fort William in Bengal shall exercise the same jurisdiction, appellate or otherwise, in respect of any sentence or order passed by such Sessions Judge under this Act, which the said High Court may exercise in respect of any other sentence or order passed by such Judge.

Bengal Printing Company Limited.

ACT No. XI of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 25th February 1863.)

An Act to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil process in the Courts of the North-Western Provinces of the Presidency of Fort William in Bengal and in other parts of the British Territories in India, to which this Act shall be extended as hereinafter provided ; It is enacted as follows :—

Laws repealed.

I. From and after the passing of this Act, Section XIV of Regulation XXVI. 1814 of the Bengal Code (*for modifying some of the Rules at present in force regarding the admission and trial of special and summary appeals from decisions passed in regular suits ; for limiting and altering some of the existing provisions respecting the pleadings and processes, and the mode of executing decrees and regular suits and appeals ; and for explaining and making certain additions to the provisions of Regulation I.* 1814), Section V of Regulation VII. 1832 of the said Code (*for modifying certain of the provisions of Regulation V.* 1831, *and for providing supplementary Rules to that enactment*), and Act XIV of 1845 (*to provide for the appointment of Nazirs in the Moonsiff's Courts*), shall cease to have effect in the North-Western Provinces of the Presidency of Fort William in Bengal.

II. Subject

PRICE TWO ANNAS.

II. Subject to the approval of the Sudder Court the Judges of the several Zillah Courts in the said North-Western Provinces shall fix the number of Peons necessary to be employed in the said Zillah Courts and in the several Courts subordinate to them for the service and execution of processes issued out of such Courts, respectively, and the Judges of the Courts of Small Causes in the said Provinces shall in like manner fix the number of Peons necessary to be employed in the said Small Cause Courts for the service and execution of processes issued out of such Courts. Subject to the like approval the said Judges may from time to time alter the number of Peons to be so employed.

Number of Peons for each Court by whom to be fixed.

III. The appointment of Peons in the several Courts mentioned in the last preceding Section shall be made, subject to the approval of the Judge of the Court, by the Nazir of the Court in which the Peons are employed, or by the Clerk of the Court where there is such an Officer ; and every such appointment shall be registered in the Court with the following particulars : the name of the Peon, his age, his place of abode, his father's name, and date of appointment.

Appointment and registration of Peons.

IV. No person who shall not be appointed and registered as a Peon in the manner hereinbefore provided shall be employed in the service or execution of the process of any Court without the special leave of such Court.

No other persons to be employed as Peons without special leave of Court.

V. The Peons who are appointed and registered in the manner above prescribed, shall be furnished at the expense of the State with a uniform belt and plate, on which shall be inscribed the Court to which the Peon belongs and the number of the Peon in the Register.

Peons to be furnished with belt and plate.

VI. The Peons appointed and registered under this Act shall either receive fixed salaries, or be remunerated by fees for the service of the processes served or executed by them, as the local Government shall direct. The amount of salary shall be fixed by the local Government.

Remuneration of Peons.

VII. When

Disposal of sums paid under Act for execution of process.

VII. When the Peons appointed under this Act are remunerated by a fixed salary, the money paid under this Act for the service or execution of processes shall be carried to the credit of Government, and shall be formed into a fund out of which the salaries of such Peons shall be paid. Any surplus that may accrue from such fund, after paying the salaries of the Peons, shall be at the disposal of the local Government, and may be applied by such Government, subject to the approval of the Governor-General in Council, to the improvement of the administration of Civil Justice in the North-Western Provinces.

Account of Moneys received into and paid out of Court.

VIII. A regular account of all moneys received into and paid out of Court under this Act shall be kept, and extracts from this account shall be forwarded to the local Government at such times, and in such form as such Government shall direct.

Construction of process.

IX. Every process served or executed under this Act shall be held to be a process within the meaning of Section 188 of the Code of Civil Procedure and Section II of Act XXIII of 1861 (*to amend Act VIII of* 1859 *for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*).

Sudder Court to make rules for fixing cost of serving process, remuneration of peons, &c.

X. The Sudder Court shall make rules prescribing the cost of serving and executing processes issued by the said Court, and by the Courts subordinate to such Court, as well as by the Courts of Small Causes, established within the local limits of the jurisdiction of such Sudder Court, and for levying the same, and also rules for the remuneration of the Peons appointed and registered under this Act who are not paid by fixed salaries, and of all other persons who may be employed in the service or execution of processes by leave of a Court under the 4th Section of this Act, and also such other rules as the Sudder Court shall deem necessary, and shall not be inconsistent with the provisions of this Act, for carrying out the provisions of this Act. The rules made under this Section, after being confirmed by the local Government, shall have the force of law. Subject to the same confirmation the Sudder Court may

may from time to time vary the rules made under the authority of this Section. The rules made and confirmed under this Section, and a table of costs for serving and executing processes, shall be exposed to public view in every Court for which Peons are appointed and registered under this Act.

Powers of Governor-General, and of Lieutenant-Governor, Punjab, to extend Act.

XI. The Governor-General of India in Council shall have power by an order to be published in the Calcutta Gazette to extend the provisions of this Act to any part of the Territories under the immediate administration of the Governor-General in Council; and the Lieutenant-Governor of the Punjab shall have power by an order to be published in the Official Gazette to extend the provisions of this Act to any part of the Territory under his Government.

Interpretation of "Judge."

XII. The term "Judge" in this Act shall denote the Presiding Judicial Officer in every Court of Civil Judicature by whatever title he shall be designated. And in any place not subject to the General Regulations to which the provisions of this Act extend, or shall hereafter be extended as provided in the last preceding Section, the Judges of the principal Courts of original Civil Jurisdiction in such place shall be the Judges to fix the number of Peons necessary to be employed in such Courts, and in any Courts subordinate to such Courts, as provided in Section II of this Act, and subject to the approval therein mentioned.

Interpretation of "Sudder Court" in places to which Act shall be extended.

XIII. When this Act shall be extended to any place under Section XI of this Act the term "Sudder Court" as used in this Act shall be taken to mean the highest Civil Court of Appeal established in the place to which this Act shall be so extended.

Bengal Printing Company Limited.

ACT No. XII of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 25th February* 1863.)

An Act to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations.

Preamble.

WHEREAS the District of Humeerpore in Bundlekund is, with the exception of the Pergunnahs of Mahoba and Jeitpore, subject to the General Regulations, and whereas it is expedient that the said Pergunnahs should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the District; It is enacted as follows :—

Laws and Regulations for internal administration of Humeerpore to have full force in Mahoba and Jeitpore, &c.

I. The Laws and Regulations established for the internal administration of the District of Humeerpore shall have full force and effect in the Pergunnahs of Mahoba and Jeitpore, and the administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the public revenue, and of all matters relating to rent in the said Pergunnahs, are hereby vested in the Officers who are, or may hereafter be, appointed by the Lieutenant-Governor of the North-Western Provinces for the said District of Humeerpore.

Saving as to suits pending at the time of passing of this Act.

II. All suits and proceedings arising in the said Pergunnahs which, at the time of the passing of this Act, shall be pending in any Court, or before any Officer, shall be heard and determined in the same manner as if the said Pergunnahs had not been brought under the operation of the General Regulations.

III. Any

PRICE SIX PIES.

III. Any suit which, before the passing of this Act, had been determined and which has been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

Suits remanded by any Appellate Court.

IV. All appeals or proceedings now pending in the Court of the Commissioner of Jhansie shall be determined by such Commissioner in the same manner as if this Act had not been passed; and all applications for execution of decrees or orders which, but for the passing of this Act, would have been made to any Court or Officer existing at the time of the passing of this Act shall be made to the Court or Officer that would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

Appeals pending in Jhansie Commissioner's Court, and execution of decrees.

V. All appeals from decrees or orders passed before the passing of this Act shall be received, heard and determined by the Court or Officer who would have had jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the passing of this Act.

Appeals from decrees or orders passed before passing of Act.

VI. This Act shall take effect from such date as the Lieutenant-Governor of the North-Western Provinces shall fix by an order to be published in the Official Gazette.

Commencement of Act.

Bengal Printing Company Limited.

ACT No. XIII of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 25th February 1863.)

An Act to empower Judges of the High Court and other Authorities at Bombay to direct Convicts to be imprisoned either in the House of Correction or the Common Jail.

Preamble.

Whereas great inconvenience is occasioned in the administration of Criminal Justice by reason of the House of Correction in the Town of Bombay not having sufficient accommodation to contain all the prisoners from time to time sentenced to be there confined for divers offences, and it is desirable that the Judges of Her Majesty's High Court at Bombay, and the Justices of the Peace and Magistrates of Police in the Town and Island of Bombay should be empowered to send prisoners to the Common Jail in the Town of Bombay, as well as to the House of Correction ; It is enacted as follows :—

Persons sentenced by High Court to rigorous imprisonment, &c., may be imprisoned in House of Correction or Common Jail in Bombay.

I. Whenever, from and after the passing of this Act, any person shall be sentenced by Her Majesty's High Court of Judicature at Bombay to rigorous imprisonment, or to imprisonment with hard labor or solitary confinement, it shall be lawful for the Judges or Judge of the said Court of Judicature to direct such person to be imprisoned either in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Jail in Bombay, as to them or him shall seem fit.

II. Whenever

II Whenever, from and after the passing of this Act, any person shall be sentenced by the High Court at Bombay to transportation, or penal servitude, such person may, at the discretion of the Judges or Judge of the said Court, be kept in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Jail in Bombay, as the place of intermediate custody.

Where also persons sentenced by the said Court to transportation, &c., may be kept.

III. Whenever, from and after the passing of this Act, any person shall be sentenced by a Justice of the Peace or Magistrate of Police in the Town and Island of Bombay to rigorous imprisonment, or imprisonment with hard labor, the person so sentenced may be committed by such Justice of the Peace or Police Magistrate either to the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or to the Common Jail in Bombay, as to such Justice of the Peace or Magistrate shall seem fit.

Where also persons sentenced by a Justice of the Peace or Police Magistrate to rigorous imprisonment, &c., may be committed.

Bengal Printing Company Limited.

ACT No. XIV OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th March* 1863.)

An Act to amend Act X of 1859 (*to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal.*)

Preamble.

WHEREAS it is expedient to amend Act X of 1859 (*to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal*) so far as it relates to the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William in Bengal, and to authorize the extension of the Act to places to which its provisions do not now apply ; It is enacted as follows :—

Suits cognizable by Collectors in addition to those specified in Sections XXIII and XXIV of Act X of 1859.

I. In addition to the suits specified in Sections XXIII and XXIV of Act X of 1859, the following suits shall be cognizable by the Collectors of Land Revenue under the provisions of the said Act, and, except in the way of appeal as provided in the said Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner, (that is to say) :—

1*st.* Suits by Lumberdars for arrears of Government Revenue payable through them by the Co-sharers whom they represent.

2*nd.* Suits by Co-sharers for their share of the profits of an estate or any part thereof after payment of the Government Revenue and village expenses, or for a settlement of accounts.

3*rd.* Suits by Maafeedars or assignees of Government Revenue for arrears of Revenue owing to them as such Maafeedars or assignees.

4*th.* Suits

PRICE ONE ANNA AND SIX PIES.

4th. Suits by Talookdars and other superior proprietors for arrears of Revenue or otherwise (not being rent claimable under Section XXIII of the said Act X of 1859) due to them as such Talookdars or other superior proprietors.

Limitation of suits under preceding Section.

II. Suits instituted under the preceding Section shall be instituted within three years from the date when the arrear or the amount of profits claimed shall have become due, or if the suit be for an arrear, or for profits due at the time of the passing of this Act, it shall be instituted within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. If the suit be for a settlement of accounts, the suit shall be brought within one year after the expiration of the year to which the accounts relate, or in the case of any claim for such settlement now existing, within one year from the time of the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

Additional ground for claim to abatement of rent.

III. In addition to the grounds mentioned in Section XVIII of the said Act X of 1859, upon which a ryot, having a right of occupancy, can claim an abatement of the rent previously paid by him, every such ryot may claim abatement on the ground that the rate of rent paid by him is above the prevailing rate payable by the same class of ryots for land of a similar description, and with similar advantages, in the places adjacent.

Addition to Clause 2 Section XXIII of Act X of 1859.

IV. Clause 2 of Section XXIII of the said Act X of 1859 shall be read as if the words " or by any other means not warranted by law" were added thereto.

Repeal and re-enactment of Sections XXXIV and LXXXVI of Act X of 1859.

V. From the date of the passing of this Act, Sections XXXIV and LXXXVI of the said Act X of 1859 shall cease to have effect in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and shall not come into force in any place to which this Act shall be extended as hereinafter provided, and the following Sections are enacted in lieu thereof :—

" Section

"Section XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance and value of the claim estimated according to any law for the time being in force for the valuation of suits; and the date of the cause of action."

Procedure in the institution of suits under this Act.

"Section LXXXVI. Process of execution may be issued against either the person or the property of a judgment debtor, but process shall not be issued simultaneously against both person and property. Such process may be issued on the oral application of the judgment creditor, his agent, or mookhtar, made at the time the decree is passed, or thereafter upon the written application of the judgment creditor, his agent, or mookhtar. Process of execution against the person or moveable property of a debtor shall be in form E or F contained in the Schedule to the said Act X of 1859, or to the like effect."

Issue of process of execution.

VI. The provisions of Sections 243 and 244 of the Code of Civil Procedure shall be applicable to decrees passed in suits under the said Act X of 1859, or this Act, in which the Collector shall award a sum of money on account either of an arrear of Government Revenue, or of profits, or otherwise. Orders passed by a Collector under either of the said Sections shall be subject to revision by the Commissioner of the Division, and the Sudder Board of Revenue, but shall not be open to appeal to the Civil Court.

Certain provisions of Civil Procedure Code applicable to decrees in rent suits.

Revision and Appeal.

VII. Section CXII of the said Act X of 1859 shall be read as if the words "or where the rent of a puttee is not collected by a lumberdar, through the putteedar who is entitled to collect the rent" were added at the end of such Section.

Addition to Section CXII of Act X of 1859.

VIII. The local Government may invest any Officer employed in making or revising settlements of the Land Revenue, with the powers of a Collector as described in the said Act X of 1859, for the decision of suits arising within the local limits of the Jurisdiction assigned to such Officer, of the nature mentioned in

Local Government may invest Settlement Officers with certain powers.

in Section XXIII of the said Act, or in this Act, while such Officer is so employed.

Matters cognizable by such Settlement Officers.

IX. In the exercise of the powers given under the last preceding Section, the Officer so invested shall have power to determine all disputes existing between Zemindars, Talookdars, or other Sudder Malgoozars, or Farmers of land, or any person duly authorized on their behalf, and any dependent Zemindar, ryot, or other under-tenant of whatever denomination, regarding the rates of rent payable by such dependent Zemindar, under-tenant, ryot, or other tenant.

Rule as to suits for enhancement of rent.

X. If a suit for enhancement of rent be brought before any Officer empowered under Section VIII of this Act to hear the same, such suit shall be heard and determined by such Officer notwithstanding that no notice of enhancement shall have been served under Section XIII of the said Act X of 1859 on the party from whom such enhanced rent is claimed. In such case the statement of claim shall set forth the grounds on which such enhancement of rent is claimed. If a decree be passed in favor of the claimant, such decree shall have effect only from the commencement of the next agricultural year after the date of the decree.

Provision for suits by or against ryots collectively.

XI. Whenever a claim to enhancement or abatement of rent against or by any number of ryots is brought before an Officer engaged in making or revising settlements, and empowered under Section VIII of this Act to hear such claim, such ryots may be sued or may sue collectively, and it shall be no ground for dismissing or refusing to hear the claim that such ryots are wrongly joined as plaintiffs or defendants, provided all such ryots cultivate in the same Estate, but no decree shall be passed in any such case in which an enhancement of rent is claimed, unless such Officer as aforesaid shall be satisfied that every ryot has had an opportunity to appear and make objection to the claim preferred against him. Provided also that every decree passed in any such case shall specify the extent to which each of the ryots named in the decree shall be affected thereby.

Decisions liable to appeal.

XII. All decisions passed under the foregoing Sections by an Officer engaged in making or revising settlements, and invested as above, shall be open to the same appeal as is given by the

the said Act X of 1859 in respect to decisions passed by a Collector in suits of the same description. Provided that no decree passed in any such suit by an Officer engaged in making or revising settlements before the passing of this Act, shall be open to question solely on the ground of want of Jurisdiction in the Officer who passed such decree, or of any error, defect, or irregularity in procedure not productive of injury to either party, but an appeal shall lie against such decree in like manner as if the suit had been decided under this Act.

Proviso as to former decisions.

XIII. In all cases in which rents have heretofore been paid in kind, or by the estimated value of a portion of the crop, it shall be lawful for an Officer employed in making or revising the settlement of the Land Revenue, on the application either of the payer or the receiver of the rent, to commute such rent into a fixed money payment. The rate or amount of rent thus fixed shall be binding upon the parties concerned, subject to the provisions of the said Act X of 1859. All decisions already passed by any such Officer, commuting rents in kind, or by valuation, to fixed rents in money, shall, subject to the same appeal as is given by the said Act X of 1859 in respect to decisions passed by a Collector in suits under the said Act, be legal and binding.

Commutation of rents in kind to fixed money payments.

XIV. The provisions of Chapter VI (relative to Arbitration) of the Code of Civil Procedure shall apply to suits under the said Act X of 1859, and under this Act.

Arbitration Chapter of Civil Procedure Code made applicable

XV. In any District through which any canal passes, in respect of which any water rate is payable to Government, it shall be lawful for the local Government to appoint any proprietor or farmer of an estate through which such canal passes in such District, with the consent of such proprietor or farmer, to be a lumberdar for the collection of such water rate in such estate, and thereupon the amount annually payable on account of such water rate by the dependent Zemindars, ryots, and other undertenants in such estate shall (subject to such abatement on account of commission or otherwise as shall be allowed by the local Government to such lumberdar), be held to be a charge on the estate of such proprietor or farmer, and shall be added to the assessment payable to Government in respect of such estate, and the amount thereof shall be recoverable in like manner as the assessment

Provision for collection of water rate.

on

on such estate, and for the purpose of collecting such water rate from the dependent Zemindars, ryots, and other tenants in such estate liable thereto, such lumberdar shall have the like powers and shall be subject to the same rules as are provided in any law for the time being in force in respect of the collection of the rent of land.

Rule as to person arrested under Section CXLV of Act X of 1859.

XVI. If any person shall be arrested under Section CXLV of the said Act X of 1859, he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case. If the case cannot be at once heard and determined, the Collector may, if he think fit, require the party arrested to give security for his person whenever the same may be required. In default of such security, the party arrested may be committed to the Civil Jail until the case is tried.

Special appeal from decisions of Zillah Judge under Act X of 1859.

XVII. Doubts having been entertained as to whether the decisions passed by a Zillah Judge in regular appeal under the said Act X of 1859 are open to special appeal, it is hereby declared that it was the intention of the said Act that such decisions should be open to special appeal to the Sudder Court in the same manner, and subject to the same rules, as the decisions of Zillah Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure.

Construction of Act.

XVIII. This Act shall be read and taken, in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and in all places to which this Act shall be extended under the next following Section, as part of the said Act X of 1859.

Power to extend the Act.

XIX. It shall be lawful for the Governor-General of India in Council to extend the provisions of Act X of 1859 as amended by this Act to any Territories immediately administered by the Government of India, or for the Lieutenant-Governor of the North-Western Provinces, and of the Punjab, respectively, to extend the said Act amended as above to any part of the Territories under their respective Governments, in which the said Act X of 1859 is not now in force. Whenever the said Act amended as above shall be so extended, the Governor-General of India in Coun-

cil,

cil, or the Lieutenant-Governor, who shall so extend the same, shall declare by what Officers in the said Territories or any parts thereof, to which the said Act X of 1859 amended as above shall be extended, the powers given by the said Act shall be exercised, and such Officers shall thereupon be authorized to exercise such powers.

ACT No. XV of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th March* 1863.)

An Act to amend Act I of 1859 (*for the amendment of the law relating to Merchant Seamen.*)

Preamble.

WHEREAS it is expedient to amend the provisions of Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) in so far as the said Act relates to agreements with Natives of India ; to vessels trading from the Straits' Settlement to the Gulf of Siam, and the Eastern Archipelago ; and to the cancelment and suspension of certificates of competency and service ; It is enacted as follows :—

Certain Sections of Act I of 1859, and Act XXVIII of 1861, repealed.

I. Sections XVII, XXI, LXXXI, and LXXXII of the said Act I of 1859, and Act XXVIII of 1861 (*to extend the provisions of Act I of* 1859 *for the amendment of the law relating to Merchant Seamen*) are hereby repealed.

Sections IX to XVI of Act I of 1859 not to apply to ships registered under Act X of 1841, under certain circumstances.

II. Sections IX to XVI of the said Act I of 1859 shall not apply to ships registered under Act X of 1841 (*for prescribing the rules to be observed, in order that ships or vessels belonging to Ports within the Territories under the Government of the East India Company, or belonging to Native Princes or States, or their Subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council, made in pursuance of the Statute* 3 *and* 4 *Victoria Chapter* 56), and trading between Ports in India and the Coast of Arabia, when such ships are navigated and manned exclusively by Arabs, Lascars, or other Asiatic Masters and Seamen, or to ships of less than two hundred tons burden registered under the said Act X of 1841, and

PRICE ONE ANNA AND SIX PIES.

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and trading between any Port of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Gulf of Siam, or the Eastern Archipelago, when such ships are navigated exclusively by Malays, Lascars, or other Asiatic Masters and Seamen.

Agreements with seamen and others.

III. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every Seaman and with every Native of India not being a Seaman whom he carries to sea from any Port in India as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Governor-General of India in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any Seaman or other person aforesaid signs the same, and shall contain the following particulars as terms thereof; (that is to say)—

1.—The nature and, as far as practicable, the duration of the intended voyage or engagement.

2.—The number and description of the crew, specifying how many are engaged as Sailors.

3.—The time at which each Seaman and each Native of India not being a Seaman is to be on board or to begin work.

4.—The capacity in which each Seaman and each Native of India not being a Seaman is to serve.

5.—The amount of wages which each Seaman and each Native of India not being a Seaman is to receive.

6.—A scale of the provisions which are to be furnished to each Seaman and to each Native of India not being a Seaman.

7.—Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted, and which the parties agree to adopt.

And

And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the Master and Seaman, and each Native of India not being a Seaman, in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law. Provided that, if the Master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages single Seamen, or any Native of India not being a Seaman, in any Port in India, such Seaman or other person aforesaid may sign the agreement so made, and it shall not be necessary for such Seaman or other person aforesaid to sign an agreement under this Act. Provided also that, in the case of Lascars or other Native Seamen, and every Native of India not being a Seaman, when it shall be agreed that the service of any such Seaman or other person aforesaid shall end at any Port not in India, the agreement shall contain stipulations for providing for such Seaman or other person aforesaid fit employment on board some other vessel bound to the Port at which he was shipped, or such other Port as may be agreed on, or for providing for him a passage to some such Port as aforesaid free of charge, or on such other terms as may be agreed on ; and every such stipulation shall be signed by the owner of the vessel, or by the Master on his behalf.

Proviso as to forms for British or Colonial ships.

Proviso where Lascars, &c. are shipped.

IV. Every Court having Admiralty Jurisdiction in India, and the principal Court of Ordinary Criminal Jurisdiction at every Port in India where there is no Court having Admiralty Jurisdiction, is hereby authorized to investigate and try charges of incompetency or misconduct on the part of any Master, Mate, or Engineer of any ship, who shall have obtained his certificate from the Board of Trade, and to make enquiry as to shipwreck or other casualties affecting ships; and if on such investigation it shall appear to any such Court as aforesaid, that the loss or abandonment of, or any serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of any such Master, Mate, or Engineer, or that any such Master, Mate, or Engineer has been guilty of any gross act of misconduct, drunkenness, or tyranny, such Court may suspend, for such period as it shall think fit, or may cancel, such certificate, whether of competency or service, of such Master, Mate, or Engineer, and

Court authorized to make enquiry into charges against Masters, Mates, and Engineers, and to report to local Government.

and the Court shall report the same to the local Government within whose limits such Court is situated. Provided that no certificate shall be cancelled or suspended, unless a copy of the Report, or a Statement of the case upon which the investigation is made, shall have been furnished to the owner of the certificate before the commencement of the investigation. Provided also that the Report of such Court is confirmed by the Governor or other person administering the local Government wherein such Court is held.

Proviso.

V. Every Court by which any investigation or trial is held under the last preceding Section shall, at the conclusion of the case, or as soon afterwards as possible, state in open Court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full Report upon the case with the evidence to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their Report.

Procedure of such Court.

VI. If the local Government, on the information of any Shipping Master, or on any other ground, has reason to believe that any Master or Mate who has obtained a certificate of competency or service from such Government, or from any other local Government, is, from incompetency or misconduct, unfit to discharge his duties, it may direct any Board or Officer at or near to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation; and thereupon such Board or Officer shall conduct the investigation into such charge of incompetency or misconduct, and shall, on the conclusion of the investigation, make a Report upon the case to the local Government which ordered the investigation.

Local Government may direct investigation in cases of incompetency and misconduct.

VII. For the purpose of any such enquiry under Section IV or Section VI, the Court, Board, or Officer may summon the Master, Mate, or Engineer, as the case may be, to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses, and may make such order with respect to the costs of such investigation, and may require such security for costs, as such Court, Board, or Officer may deem just. Every order in respect

Powers of Court, &c., in making enquiry.

spect of costs under this Section may be enforced in like manner as a fine may be enforced by a Magistrate in the Port where such investigation is held.

Local Government may cancel or suspend certificates in certain cases.

VIII. The local Government may suspend or cancel the certificate (whether of competency or service) granted by such local Government, or by any other local Government, under the said Act I of 1859, to any Master or Mate, in the following cases; (that is to say)—

Loss, abandonment, or serious damage by default of Master or Mate.

Clause 1. If upon any investigation conducted under the provisions of Sections C, CI, and CII of Act I of 1859, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default.

Incompetency, gross misconduct, drunkenness, or tyranny of Master or Mate.

Clause 2. If upon any investigation held under Section VI of this Act, the Master or Mate shall be reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

Or after other investigations.

Clause 3. If upon any investigation held under the provisions of the Merchant Shipping Act 1854, or the Merchant Shipping Amendment Act 1862, or upon any investigation made by a Naval Court constituted as is provided by any law for the time being in force, or upon any investigation made by any Court or Tribunal authorized or hereafter to be authorized by the Legislative Authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of ships, or as to shipwreck or other casualties affecting ships, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default; or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny. Provided always that, in the case of any Report by any such last-mentioned Court or Tribunal, the Report shall have been confirmed by the Governor or person administering the Government of such possession.

Supersession.

Clause 4. If he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act 1854, or any other law for the time being in force.

Clause 5.

Conviction of any offence.

Clause 5. If he is shown to have been convicted of any offence.

Master, Mate, or Engineer to deliver up his certificate. Penalty otherwise.

IX. Every Master, Mate, or Engineer whose certificate is cancelled or suspended under the provisions of this Act, shall deliver it to the Shipping Master, or to such other person as the Court or the local Government which cancelled or suspended the certificate shall direct, and in default shall, for each offence, incur a penalty not exceeding five hundred Rupees. Provided that if the local Government which cancels or suspends a certificate of a Master or Mate is not the local Government that granted the same, the local Government which so cancels or suspends the certificate shall report the proceedings, and the fact of cancelment or suspension, to the local Government which granted such certificate. Provided also that it shall be competent to any local Government at any subsequent time to grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

Proviso for report to other local Governments.

Saving of powers vested in certain Admiralty Courts.

X. Nothing in this Act shall be held to affect the powers of removal vested by Section CCXL of the Merchant Shipping Act of 1854, or Section LXXX of the said Act I of 1859, in Courts having Admiralty Jurisdiction in India. The said powers may be exercised by the principal Court of Ordinary Criminal Jurisdiction at any Port in India where there is no Court having Admiralty Jurisdiction, if the Master or Mate shall have received his certificate from any local Government.

Same powers may be exercised by Chief Criminal Court in Indian Port, where there is no Admiralty Court.

Act to be taken as part of Act I of 1859.

XI. This Act shall be read and taken as part of the said Act I of 1859.

Bengal Printing Company Limited.

ACT No. XVI of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th March* 1863.)

An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.

Preamble.

WHEREAS it is expedient to make special provision for the levy of the Excise Duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry ; It is enacted as follows :—

Such spirits may be removed from Distillery on payment of Duty, on condition.

I. Spirits intended to be used exclusively in Arts and Manufactures or in Chemistry may be removed from any licensed Distillery in any part of British India on payment of Duty calculated at ten per cent on the value of the Spirits, provided that no Spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

Rules for ascertaining and determining that spirits to be removed have been rendered unfit for human consumption, &c.

II. The Board of Revenue, or other Authority specially authorized in that behalf by the local Government, shall prescribe from time to time, subject to the approval of the local Government, rules for ascertaining and determining that Spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by Section I of this Act ; for causing such Spirits to be so rendered, if necessary, by its own Officers at the expense of the person who wishes to remove them ; and for fixing the value of the Spirit on which the *ad valorem* Duty shall be levied.

III. Every

PRICE NINE PIES.

III. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other Authority as aforesaid, under the last preceding Section of this Act, shall be liable on conviction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred Rupees for every such offence.

Penalty for breach of such rules.

IV. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, Spirits removed from a Distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand Rupees; and the possessor of such Spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable on conviction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred Rupees.

Penalty for attempting to render fit for human consumption, spirits removed under this Act.

V. Any penalty imposed under either of the last two preceding Sections may in case of non-payment be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the Officer by whom such penalty was imposed.

Such penalty how to be levied.

VI. In case any such penalty shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time, as shall be appointed for the return of the warrant of distress.

In case of non-payment of penalty, offender may be detained pending return to distress warrant.

VII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may by warrant under his hand commit the offender to the Civil Jail, there to be imprisoned, according to the discretion of such Officer, for any term not

Imprisonment of offender in case of failure to recover penalty by distress.

not exceeding two Calendar months when the amount of penalty shall not exceed fifty Rupees, and for any term not exceeding four Calendar months, when the amount shall not exceed one hundred Rupees, and for any term not exceeding six Calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Provisions of Section XI Act III of 1852 relating to adulteration, not to apply to spirits rendered unfit for consumption under this Act.

VIII. The prohibition contained in Section XI of Act III of 1852 *(to amend the law relating to spirituous and intoxicating liquors, drugs, and preparations within the Territories subordinate to the Presidency of Bombay)* against mixing any noxious drug or material in, or by other process adulterating Spirits manufactured under the provisions of Regulation XXI of 1827 of the Bombay Code, or of the said Act III of 1852, shall not apply to Spirits rendered unfit for human consumption under this Act.

Confiscation in cases of conviction under Section III or IV.

IX. In every case of conviction under Section III or Section IV of this Act the liquor or Spirits with the cask or vessel containing the same, and the cart, boat, and animal or animals employed in carrying such liquor or Spirit, shall be liable to confiscation.

Bengal Printing Company Limited

ACT No. XVII of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th March* 1863.)

An Act to authorize the extension of the term of Office of the Municipal Commissioners in the Settlement of Prince Wales' Island, Singapore, and Malacca.

Preamble.

WHEREAS it is expedient that the term of Office of the Municipal Commissioners in the Straits' Settlement should be extended; It is enacted as follows: —

Section repealed.

Section suspended.

I. Section XIX of Act XXVII of 1856 (*for appointing Municipal Commissioners, and for levying rates and taxes in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), is repealed. The operation of Section XV of the said Act shall be suspended at the election of Municipal Commissioners under the said Act, to be held next after the passing of this Act.

Governor to declare for what period Commissioner appointed by him shall hold Office.

II. The Governor of the Settlement shall, upon the appointment of the Commissioner whom he is empowered by the said Act XXVII of 1856 Section V to appoint, declare for what number of years, not exceeding three, such Commissioner shall hold Office.

Elected Commissioners to hold Office for periods to be determined as provided.

III. The Municipal Commissioners of Prince of Wales' Island, Singapore, and Malacca, respectively, who shall be chosen at the said next election by the largest number of votes, shall hold their Office for one, two, or three years, as shall be determined in manner hereinafter mentioned.

IV. The

PRICE NINE PIES.

IV. The Municipal Commissioner who is chosen at such next election by the largest number of votes shall hold his Office for three years; the Municipal Commissioner who is chosen by the next largest number of votes shall hold his Office for two years, and the remaining Municipal Commissioner shall hold his Office for one year.

Allotment of periods for tenure of Office, by number of votes.

V. If at any of the said Stations the three Municipal Commissioners chosen at the said next election shall be elected by an equal number of votes, the Governor, or, in his absence from such Station, the Resident Councillor shall declare and appoint the periods of three years, two years, and one year, respectively, for which every such elected Municipal Commissioner shall hold Office.

Allotment in case of votes for all three Commissioners being equal.

VI. If at any of the said Stations at the said next election, two of the Municipal Commissioners chosen shall have an equality of votes, but such number shall be greater than the number of votes given for the third Municipal Commissioner; the Governor, or, in his absence, the Resident Councillor shall declare and appoint the periods of three years, and two years, respectively, for which each of the said two Municipal Commissioners shall hold Office; and the other Municipal Commissioner shall hold Office for one year only.

And in case of votes for two being equal, and yet greater than for the third.

VII. If at any of the said Stations at the said next election, one of the Municipal Commissioners chosen shall have a number of votes larger than the other two Municipal Commissioners, and such other two Commissioners shall have an equality of votes, the Municipal Commissioner who shall have such larger number of votes shall hold Office for three years, and the Governor, or, in his absence, the Resident Councillor shall declare the periods of two years, and one year, respectively, for which each of the other two Municipal Commissioners shall hold Office.

And in case of one having a majority, and the other two an equal number.

VIII. If at any of the said Stations an equal number of votes be given for any two or more candidates at the said next election, so that the Sheriff or his Deputy is not able to declare, as between such persons, which of them has been elected, the Governor,

When two or more candidates have an equal number of votes, election how to be determined.

Governor, or, in his absence, the Resident Councillor shall give a casting vote for one or more of such persons, and, reckoning such vote, shall declare the period for which such person or persons shall hold Office in manner provided in Section IV.

Term of tenure of Office of Commissioner appointed under Section XVI of Act XXVII of 1856.

IX. Every Commissioner appointed under Section XVI of the said Act XXVII of 1856, in consequence of a refusal to act, a failure of election, or otherwise, shall hold Office for such term as the Governor or Resident Councillor of the Station shall declare. Provided that such term shall in no case exceed three years, and shall be a term which shall conform to the terms for which the other Commissioner or Commissioners shall have been declared and appointed to hold Office under Section IV of this Act, so that the three Commissioners shall hold their Offices for three years, two years, and one year, respectively.

Proviso.

And of Commissioner appointed under Section XVII of said Act.

X. Every Commissioner appointed under the provisions of Section XVII of the said Act XXVII of 1856, in place of any Commissioner elected at the said next election, shall hold Office for the term for which the Commissioner in whose place he is appointed was entitled to hold Office.

Names and terms of Office to be published.

XI. The names of the persons elected or appointed to be Municipal Commissioners under this Act, and the terms for which such persons shall hold Office, shall be published in such manner as the Governor may direct.

Commissioners when to enter on Office. Subsequent elections limited to one. Appointments to vacancies.

XII. The Municipal Commissioners at each of the said Stations, elected under the provisions of this Act, shall enter upon their Office on the first day of January after their election, and shall hold Office for the periods hereinbefore provided. At every subsequent election under the said Act XXVII of 1856, one Commissioner only shall be elected. The Commissioner elected at such subsequent election shall hold Office for three years. Appointments to fill up any vacancy occasioned by the death, resignation, or refusal to act, of any such Commissioner, shall have effect for the period for which such Commissioner would have held Office but for such death, resignation, or refusal to act,

act, and all the provisions of the said Act XXVII of 1856, so far as they are not affected by this Act, which relate to the election of three Commissioners at each annual election, shall, so far as practicable, be construed to apply to the election of one Commissioner only.

Construction of Act.

XIII. This Act shall be read and taken as part of the said Act XXVII of 1856.

Bengal Printing Company Limited.

HIGH COURT (MASTER'S OFFICE AND OATHS) ACT.

ARRANGEMENT OF SECTIONS.

SECTION.

1. Power to Master to summon Parties, &c., and to settle and wind up proceedings before him.

2. Power to Court, upon Master's Report or Certificate, to make order for prosecution and final disposal of any suit, &c., and for payment of costs, &c.

3. Neglect to bring Report before the Court.

4. No fresh references to Master except in suits already before him.

5. All powers possessed by Master may be exercised by Judges.

6. Power to Court to dismiss suits upon Certificate of Master that no proceedings have been taken for a year.

7. Power of Division Court to refer matters for investigation by a single Judge.

8. Power to make rules.

9. Extension of Act V of 1840, concerning Oaths and Declarations of Hindoos and Mahomedans, to High Court.

10. Process from High Court may be served by Attorneys and others.

11. Not to be necessary for a Judge to sign process.

12. Extension of Act to High Courts at Madras and Bombay.

ACT No. XVIII of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th March* 1863.)

An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.

Preamble.

WHEREAS, at the time of the abolition of the late Supreme Court of Judicature at Fort William in Bengal, many matters which had been referred to the Master of the said Court were pending before him, and many of them are still pending before the Master of the High Court, and it is expedient that all such matters should be wound up and determined as expeditiously as possible, and whereas it is expedient that the law concerning the administration of oaths to Hindoos and Mahomedans in such Court should be assimilated to the law concerning such oaths in Courts not established by Royal Charter ; and that the Code of Civil Procedure should be amended in respect of process issued out of the said High Court in the exercise of its Ordinary Original Civil Jurisdiction ; It is enacted as follows :—

Power to Master to summon parties, &c., and to settle and wind up proceedings before him.

I. In order as expeditiously as may be to wind up all the suits, matters, and things which are now pending before the Master of the said High Court of Judicature at Fort William in Bengal, it shall be lawful for the Master, at any time after the passing of this Act, at his own discretion, and without application on behalf of any of the parties to the suit or reference, and in such manner as he shall deem fit, to summon all or any of the parties to any suit, matter, or thing so pending, or their Solicitors, and thereupon to proceed with such suit, matter, or

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or thing, and to give such directions and make such orders as he may think necessary for the purpose of settling and winding up the same; but any such order shall be subject to be discharged or varied by the said Court upon application made for that purpose, and the Master shall be at liberty to proceed *ex-parte* for the purposes aforesaid in the absence of any of the parties, or their Solicitors neglecting or refusing to attend the summons, and it shall also be lawful for the Master at his discretion to proceed with the reference, and to make a special report to the Court notwithstanding the death of any of the parties to the suit or reference, or their absence from the Jurisdiction of the Court, or in cases in which, after search to the satisfaction of the Master, parties are not to be found within the Jurisdiction of the Court, or it is uncertain whether such parties are living or dead.

Power to Court, upon Master's report or certificate, to make order for prosecution and final disposal of any suit, &c., and for payment of costs, &c.

II. In case the Master shall be unable by reason of the conduct of parties, or otherwise, to dispose finally of any suit, matter, or thing referred to or pending before him (within such time as he shall in that behalf determine), he shall be at liberty to report on or to dispose of any part thereof within his power, and to report or certify on the whole of the case; and upon such report or certificate the Court shall make such order as it shall think proper on all or any of the parties, for the further prosecution of the suit or matter, or for the final disposal thereof, and for the payment of the costs thereof, including any of the costs which may have been incurred by reason of the conduct of the parties.

Neglect to bring report before the Court.

III. If within a time to be fixed by the Master in that behalf, the report or certificate of the Master shall not be brought before the Court, the Registrar shall bring such report or certificate before the Court, and the Court is hereby empowered to make such order or decree in the suit as to the Court shall seem fit.

No fresh references to Master except in suits already before him.

IV. From and after the passing of this Act no reference shall be made to the Master except in cases in which, from some previous reference made in the suit or matter, or in some other suit or matter connected therewith, the Court may think it expedient to make such reference.

V. From

All powers possessed by Master may be exercised by Judges.

V. From and after the passing of this Act all or any of the powers, authorities, and Jurisdiction, which at the time of the abolition of the said Supreme Court were vested in the Master in Equity, may be exercised by the High Court, or by a Judge of the said Court.

Power to Court to dismiss suits upon certificate of Master that no proceedings have been taken for a year.

VI. Whenever it shall appear from the certificate of the Master that no proceedings have been taken in his Office for a period of one year in any reference pending before him, the Court shall have power to dismiss such suit, or to make such other order or decree in the suit as to the Court shall seem fit.

Power of division Court to refer matters for investigation by a single Judge.

VII. It shall be lawful for any division Court consisting of more than one Judge to adjourn, for the consideration of a single Judge, any matters of account, detail, or other description which, in the opinion of such Court, may be more conveniently investigated by a single Judge sitting in Chambers, and such matters shall thereupon be investigated by a single Judge, who shall proceed with such investigation sitting either in Chambers or in open Court, and shall report thereon to a division Court, and such report shall as regards such division Court be final, but shall be open to revision by any Court of Appeal to whom the order or decree founded thereon may be appealed. The Chief Justice shall from time to time determine in each case what Judge shall take or proceed with the investigation.

Power to make rules.

VIII. The said High Court shall have power to make general rules for orders for winding up the business now pending in the Office of the said Master, and generally for regulating the conduct of business, and the manner in which the same shall be transacted in the Master's Office, and for regulating the procedure of a single Judge touching investigations before him under the provisions of this Act. Provided that such rules and orders shall not be inconsistent with the provisions of this Act, or of any Act for the time being in force relating to such matters.

IX. The

Extension of Act V of 1840, concerning oaths and declarations of Hindoos and Mahomedans, to High Court.

IX. The proviso contained in Section IV of Act V of 1840 (*concerning the oaths and declarations of Hindoos and Mahomedans*), that the said Act shall not apply to any declaration or affirmation made in any of Her Majesty's Courts of Justice, is hereby repealed, and Section I of the said Act V of 1840 shall be read as if the words following had been added thereto.

"And when verifying an Affidavit to the following effect :—I solemnly affirm in the presence of Almighty God that the signature to this is my name and hand-writing, and that the contents of this Affidavit are true."

Process from High Court may be served by Attorneys and others.

X. After the passing of this Act notices to produce documents or writings, summonses to witnesses, and all other judicial process issued in the exercise of the Ordinary Original Civil Jurisdiction of the High Court of Judicature at Fort William in Bengal, except writs of summons to defendants issued under Section XLI of Act VIII of 1859 (*the Code of Civil Procedure*) and writs of execution, may be served by the Attorneys in the suit, or by persons employed by them, or in such other manner as the said High Court shall by any rules or orders from time to time direct.

Not to be necessary for a Judge to sign process.

XI. It shall not be necessary for a Judge of the said High Court to sign any writ, order, summons, or other judicial process issued or made in the exercise of the Ordinary Original Civil Jurisdiction of the said High Court. The said High Court shall have power from time to time to direct that such writs, orders, or other process shall be signed by such Officer or Officers of the said Court as to the Court may seem fit.

Extension of the Act to the High Courts at Madras and Bombay.

XII. This Act may be extended to the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, by an order of the Governor in Council of Fort Saint George, and the Governor in Council of Bombay, respectively, to be published in the Official Gazettes of Madras and Bombay, respectively ; and when so extended by such order, shall take effect in the said Courts from the date

date of the publication of such order. When so extended to either of such High Courts, this Act shall in all respects apply to such High Court in the same manner as if the name of such High Court had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

Bengal Printing Company Limited.

PARTITION OF ESTATES ACT.

ARRANGEMENT OF SECTIONS.

SECTION.

1. Laws repealed.

2. Future partitions to be made under provisions of this Act.

3. What parties entitled to partition.

4. Parties desirous of partition to apply to Collector in writing.

5. Application to be signed, and certain particulars specified.
Otherwise may be rejected.

6. Procedure of Collector on receipt of application.
Notice to proprietors who have not joined therein.
Proclamation in case of service of notice being impracticable.

7. In case of valid objection being made within time allowed, application may be refused.

8. Procedure, if question of title, or of proprietary right, be raised.
Reference to Arbitrators.

9. Decision of Collector equivalent to decision of Civil Court, and open to appeal.
Appellate Court may, on appeal, stay partition.

10. Special appeal to Sudder Court.

11. Civil Court to entertain suits only on appeal from decision of Collector.

12. Notification on partition being ordered.

13. Partition by whom to be carried out.

14. Assessment and levy of costs incurred in making partition.

15. Partition may be stayed, and proceedings quashed, by Commissioner.
Decision not open to revision by Civil Court.

16. Procedure after lapse of period mentioned in Notification under Section XII.

17. Examination of the parties and their papers.

SECTION.

18. Option of settlement by private agreement.
Procedure in case of refusal or default.

19. If parties cannot agree as to arbitrators, latter may be appointed by Collector.
In case of equality of votes, Collector to act as umpire.

20. Appointment in place of arbitrator refusing, or being unable, to act.

21. Powers of Collector with regard to arbitrators.

22. Particulars to be specified in partition paper.

23. Remuneration of arbitrators.

24. In default of award by first arbitrators, partition may be referred to others.

25. In default of private agreement, or settlement by arbitration, Officer may be appointed to make partition.

26. Who shall summon proprietors by proclamation to attend proceedings.

27. Estate may be attached and brought under Khas management under superintendence of Officer.

28. Procedure in case of arrears of Revenue accruing during course of partition of estate.

29. Powers of Officer charged with partition in respect of measurement, &c.

30. Division of lands held in common.
Proviso.

31. Collector may refuse to separate lands in certain cases.

32. Where no lands held in common, lands in severalty may be declared a separate estate.
Proviso as to transfers.

33. Sharer failing to attend after proclamation, liable to forfeit right of objection.

34. Partition may be stayed if parties so desire.
Recovery of costs.

35. Estates formed in course of partition to be as compact as possible.

36. Revenue to be assessed on each divided estate.

SECTION.

37. Circumstances to be considered in making partitions.

38. Rule when dwelling house belonging to one sharer is situate on ground to be allotted to another sharer.

39. Rule as to tanks, wells, water-courses, and embankments.

40. Rule as to places of worship.

41. Particulars to be contained in the paper of partition to be submitted by Officer making same.

Map to be also submitted.

42. Procedure of Collector thereupon.

43. Commissioner may confirm or modify partition, subject to appeal to Board of Revenue. And may direct division by lot, under certain circumstances.

44. Procedure by Collector on receipt of order of Commissioner, or of Board of Revenue on appeal.

45. Government may order new allotment of public Revenue among estates formed by partition, in case of fraud or error in original allotment being proved.

46. Consequence to party having interest in any estate, if he neglect to affirm or establish such interest while the estate is under attachment with a view to partition.

47. Holder of decree of Civil Court, awarding right to portion of an estate, may apply for partition, and Collector may proceed thereon under Act.

48. Union in certain cases of severed portions of estates originally undivided.

49. Application for such union how to be made, and how to be dealt with.

50. Certain provisions of Act applicable to partition cases pending at the time of its passing.

51. Provisions of Act may be applied to partition of estates held free from payment of Revenue.

52. Control of Collector's proceedings under Act.

53. Orders of Collector, except in certain cases, open to revision by superior Revenue Authorities.

54. What other Officers may exercise powers vested in Collector by this Act.

SECTION.

55. Powers to be exercised by Collector, or Officer appointed to make partition.

56. Powers of Officers exercising jurisdiction under this Act with regard to false evidence.

57. Board of Revenue to be guided by instructions of Local Government.

58. Interpretation.

59. Territorial scope of Act.

ACT No. XIX OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th March 1863.)

An Act to consolidate and amend the Law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal; It is enacted as follows:—

Laws repealed.

I. From the date of the passing of this Act Regulation IX of 1811 of the Bengal Code (*for facilitating the Division of landed Property, and for securing the Rights of joint Sharers in joint undivided Estates*), Regulation XI. 1811 of the same Code (*for extending the period fixed by the existing Regulations for revising the Jumma on Lands ordered to be divided into two or more Estates*), Regulation XIX. 1814 of the same Code (*for reducing to one Regulation, with alterations and additions, certain Regulations respecting the Partition of Estates paying Revenue to Government*), Act XX of 1836, and Act XI of 1838, except in so far as the said Regulations and Acts repeal any Regulation or Act, or any part of any Regulation or Act, and except as to the partition of any estate which shall be pending at the time of the passing of this Act, shall cease to have effect in the North-Western Provinces of the Presidency of Fort William in Bengal. Unless as hereinafter provided, the partition of any estate which shall be pending at the time of the passing of this Act shall be proceeded with and completed in the same manner as if this Act had not been passed.

II. Except

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II. Except as directed in the last preceding Section, all partitions of estates which shall be ordered to be made by the Officers of Government after the passing of this Act, shall be made under the provisions of this Act, whatever may be the tenure of the estate ordered to be divided.

Future partitions to be made under provisions of this Act.

III. Every recorded proprietor of a joint undivided estate paying Revenue to Government, or of any portion thereof, whether such estate is held in common tenancy or otherwise, is entitled to claim partition under this Act.

What parties entitled to partition.

IV. When any one or more of the recorded proprietors of an estate, as described in the last preceding Section, shall desire to have his or their shares of the estate separated, in order that he or they may hold the same as a separate property, or as separate properties, such proprietor or proprietors shall make a written application for the purpose to the Collector of the District. Any two or more proprietors may apply to have their shares separated, and to hold the same as a joint estate.

Parties desirous of partition to apply to Collector in writing.

V. The application shall be signed by the party or parties applying for the partition, and shall specify the nature of the tenure of the estate sought to be divided. The names of all the co-sharers in the estate, the nature and extent of their respective shares so far as the same may be known to the applicant or applicants, or can be ascertained by him or them, and the mode of partition desired, shall also be stated. If the application does not contain the particulars above-mentioned, the Collector may reject it.

Application to be signed, and certain particulars specified.

Otherwise may be rejected.

VI. The Collector, on the receipt of an application for partition, shall, if the application be in order, and not open to objection on the face of it, publish a Notification of the same at his Office, and at some conspicuous place on the estate to which the application relates, and shall invite any party in possession, who may not have joined in the application, and who may object to the partition applied for, to appear before him either in person or by a duly constituted agent, on a day to be specified in the Notification, not being less than fifteen, or more than thirty days

Procedure of Collector on receipt of application.

days from the date of the Notification, and state his objection. If the application for partition shall not have been made by all the recorded proprietors of the estate, notice of the application shall be served, in the manner usual in the District for serving notices of the Revenue Officers, on such of the recorded proprietors of the estate as shall not have joined in the application. Provided that, if from any cause such service cannot take place, a proclamation notifying such application shall be published, by affixing it at the Maal Cutcherry of such estate, or other conspicuous place thereon, or at the village Chourie, Choupal, or other conspicuous place in each village in such estate.

Notice to proprietors who have not joined therein.

Proclamation in case of service of notice being impracticable.

VII. If any objection be made to the partition, by any party in possession, within the time allowed, and the Collector, on a consideration of such objection, be of opinion that there is any good and sufficient reason, not inconsistent with the provisions of this Act, why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

In case of valid objection being made within time allowed, application may be refused.

VIII. If the objection raise any question of title, or of proprietary right, which shall not appear to have been already determined by a Court of competent Jurisdiction, the Collector may either decline to grant the application until the question in dispute shall have been determined by a competent Court, or he may proceed to inquire into the merits of the objection. In the latter case the Collector, after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests in the actual possession of the party or parties applying for the partition, and any other party or parties who may be affected thereby. The procedure to be observed by the Collector in trying such cases shall be that laid down in Act VIII of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)* for the trial of original suits, and the Collector shall have power to refer any question that may arise in such case to arbitration, and the provisions of Chapter VI (relative to arbitrators) of the Code of Civil Procedure shall apply to cases so referred by a Collector.

Procedure if question of title, or of proprietary right, be raised.

Reference to arbitrators.

IX. All

Decision of Collector equivalent to decision of Civil Court, and open to appeal.

IX. All orders and decisions passed by the Collector under the last preceding Section, for declaring the rights of parties, shall be held to be decisions of a Court of Civil Judicature of first instance, and shall be open to appeal to the District or Sudder Court, according to the value of the claim, under the rules applicable to regular appeals to those Courts. Upon such appeal being made, the District or Sudder Court, as the case may be, may issue a precept to the Collector, desiring him to stay the partition pending the decision of the appeal.

Appellate Court may, on appeal, stay partition.

Special Appeal to Sudder Court.

X. From every decision passed under the last preceding Section by a District Court, a special appeal shall lie to the Sudder Court, under the rules for the time being in force relating to special appeals to that Court.

Civil Court to entertain suits only on appeal from decision of Collector.

XI. It shall not be competent to the Civil Court to entertain a suit, or application for the partition of an estate, except on appeal from the decision of the Collector as hereinbefore provided, anything contained in Section 225 Act VIII of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)* to the contrary notwithstanding.

Notification on partition being ordered.

XII. When the Collector, after disposing of the objections (if any) taken to the partition, shall order a partition to be made, he shall cause a Notification to be published in his own Office, in the District Court, and at some conspicuous place on the estate which is to be divided, intimating his intention to proceed with the partition after thirty days from the date of the Notification.

Partition by whom to be carried out.

XIII. The partition shall be made by the Collector in whose District the estate is situate, or, if the estate be situate in two or more Districts, then by the Collector of any one of such Districts, who may be specially ordered by the Commissioner of the Division to superintend the partition. If the estate be situated in two or more Divisions, the partition shall be made by such Collector as the Board of Revenue shall order.

XIV. The

Assessment and levy of costs incurred in making partition.

XIV. The expense of making the partition, and the allowances of the establishment necessary for the measurement and survey of the lands, the preparation of papers, and any other charges, shall be fixed by the Collector. The amount shall be paid under such rules as may from time to time be laid down by the Board of Revenue with the sanction of the local Government, and, in default of payment, may be realized under the rules applicable to the recovery of arrears of rent or Revenue.

Partition may be stayed, and proceedings quashed, by Commissioner.

XV. At any stage of the proceedings after a partition shall have been ordered, if it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any reason not inconsistent with the provisions of this Act exists, why the partition should not be proceeded with, it shall be competent to the Commissioner, on the report of the Collector, and subject to any orders that the Board of Revenue may pass in the case, to stay the partition, and to order the proceedings to be quashed. The decision of the Revenue Authorities under this Section shall not be open to revision by the Civil Court.

Decision not open to revision by Civil Court.

Procedure after lapse of period mentioned in Notification under Section XII.

XVI. After the expiration of the period mentioned in the Notification referred to in Section XII of this Act, the Collector shall, if necessary, cause a measurement of all the lands comprised in the estate to be made, and a rent-roll of the same to be prepared. The village papers which are required to be prepared and periodically deposited in the Office of the Collector, under the provisions of Sections XI and XII, Regulation IX. 1833 (*to modify certain portions of Regulation VII.* 1822, *and Regulation IV.* 1828 ; *to provide for the more speedy and satisfactory decision of Judicial Questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations ; for enforcing the production of the village accounts ; for the more extensive employment of Native Agency in the Revenue Department ; and to declare the intent of Section V Regulation VII.* 1822, *touching claims to Malikana*), may be used for the purposes of this Act. Provided that any of the proprietors shall be permitted to file a rent-roll of the estate, which shall be accepted if acknowledged to be correct by all the proprietors.

XVII. The

Examination of the parties and their papers.

XVII. The Collector may examine the parties on solemn affirmation in regard to the papers produced before him, whether by the Officer appointed to make the partition, the proprietors, or otherwise. He shall also allow any shareholder to examine the papers so produced, and to take a copy of the same, and after such examination he shall hear any objections which any of the shareholders may make in respect to such papers. The Collector may direct any Deputy Collector or other Officer subordinate to him to examine the papers produced before him, and to make a report upon the same.

Option of settlement by private agreement. Procedure in case of refusal or default.

XVIII. The Collector, on the completion of the enquiry allowed by the last preceding Section, shall allow the parties the option of making a private partition of the estate and allotment of the public Revenue amongst themselves, within such time as he may fix, or, if the parties shall not consent to make a private partition of the estate, or shall fail to make such partition within the time fixed by the Collector, the Collector shall call upon them to state whether they are willing to refer the partition of the estate, and the apportionment of the public Revenue, to an arbitrator or arbitrators to be appointed by them. The Collector may also offer the parties the option of referring any point arising in the course of a partition to arbitration. The partition and allotment of the public Revenue made by the parties, or by arbitrators appointed by them, shall be subject to the confirmation of the Collector, and the orders of the superior Revenue Authorities.

If parties cannot agree as to arbitrators, latter may be appointed by Collector.

In case of equality of votes, Collector to act as umpire.

XIX. If the parties consent to refer the partition of the estate, and the allotment of the public Revenue, or any point arising in the course of the partition, to arbitration, but they cannot agree amongst themselves as to the arbitrator or arbitrators to be appointed, the Collector may appoint two or more persons to be arbitrators in the case. If the arbitrators are equally divided in opinion, the Collector shall act as umpire, and the partition made by the arbitrator or arbitrators with whom the Collector shall concur, shall be the partition in the case. The same rule shall apply in respect of any point arising in the course of a partition, which shall be referred to abitration.

XX. If

XX. If any person, on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed arbitrator in his stead, in the same manner in which the first person was appointed.

Appointment in place of arbitrator refusing, or being unable, to act.

XXI. After the arbitrators shall have accepted the appointment, the Collector shall transmit the whole of the papers to them, and it shall be competent to the Collector to exercise towards the arbitrators the same powers and authority for securing their attendance, and the due completion of their award, which he is competent to exercise towards witnesses summoned before him when acting judicially, for the purpose of compelling them to attend and give evidence. The Collector shall also fix a time within which the arbitrator or arbitrators shall deliver the paper of partition. On sufficient cause shown, the Collector may extend such period.

Powers of Collector with regard to arbitrators.

XXII The arbitrators shall deliver a full and complete paper of partition, specifying the separate estates into which they propose that the estate shall be divided, the names of the parties to whom the several estates are proposed to be allotted, and the amount of public Revenue to be assessed on each of such estates.

Particulars to be specified in partition paper

XXIII. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount to be fixed by the Collector.

Remuneration of arbitrators.

XXIV. If the paper of partition be not delivered within the time fixed by the Collector, or within any further period to which the time may have been extended, the Collector may order that the partition shall be referred to another arbitrator or arbitrators, to be chosen in the same manner and subject to the same rules as the first.

In default of award by first arbitrators, partition may be referred to others.

XXV. If the partition of the estate cannot be made by the parties themselves, or by arbitration, under the foregoing rules, the Collector shall appoint an Officer to make the partition, and shall forward the whole of the papers to such Officer, and

In default of private agreement, or settlement by arbitration, Officer may be appointed to make partition.

and shall direct him to proceed to the estate, and to make the partition within a time to be fixed by the Collector.

Who shall summon proprietors by proclamation to attend proceedings.

XXVI. The Officer appointed to make the partition shall issue a proclamation at the Maal-Cutcherry of the estate, or other conspicuous place thereon, or at the village Chouree, or Choupal, requiring the several proprietors of the estate to attend upon him in person, or by agent, during the time that the partition is being made.

Estate may be attached and brought under Khas management under superintendence of Officer.

XXVII. At the commencement of the Revenue year current in the District, the Collector may direct the Officer appointed to make the partition, or some other person, to attach the estate, and to bring it under Khas management under the personal superintendence of such Officer. The collections of the estate, after defraying the expenses of management, and any other expenses with which the estate is chargeable, shall be applied to the payment of the Government Revenue, and the residue shall be divided amongst the proprietors in proportion to their respective shares, at such periods as the Collector may see fit.

Procedure in case of arrears of revenue accruing during course of partition of estate.

XXVIII. If an arrear of public Revenue shall accrue on an estate ordered to be divided, while the partition of the estate is being made, any one or more of the proprietors may tender to the Collector his or their quota of the balance, and the Collector shall receive the same, and credit the amount to the share or shares of such proprietor or proprietors. If a sale of any part of the estate shall ultimately become necessary for the liquidation of any part of such arrear which may remain due, only the share or shares of the proprietor or proprietors who shall not have contributed their quota of the balance shall be sold in the first instance, and the partition shall go on and be completed, in the same manner as if no arrear of public Revenue had accrued. The purchaser or purchasers of the share or shares sold shall be entitled to separate possession of the estate or estates which, under the partition, would have been allotted to the defaulting proprietor or proprietors. Provided always that, in all cases of a partition, the entire estate shall be considered responsible for the public Revenue assessed upon it, until the partition shall have been completed, and the several proprietors shall have been put into possession

of

of the separate estates into which the estate may be ordered to be divided, according as the same may be allotted to them.

Powers of Officer charged with partition, in respect of measurement, &c.

XXIX. If the Officer appointed to make the partition shall consider it necessary, to assist him in making the same, to cause a detailed measurement to be made of all the lands comprised in the estate, or a map of the estate to be prepared, he shall exercise the same powers for making such measurement and map as are vested in the Collector by any law for the time being in force.

Division of lands held in common.

XXX. When some of the lands forming the estate are held in common, the Collector shall declare, by a proceeding to be held under the provisions of this Act, the principle and rule under which, in accordance with the village custom, such lands shall be divided; and he shall cause the partition of such lands to be made in conformity to the provisions of this Act. The portion of the common land falling by such partition to the shares of the several co-sharers shall be added to the lands held by them in severalty, and the several estates thus formed shall be assessed and declared separate estates. Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to by the parties, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Proviso.

Collector may refuse to separate lands in certain cases.

XXXI. The Collector may refuse to declare any lands held in severalty, and not liable to re-distribution according to special village custom, a separate mehal, if the lands be so intermixed with other properties as to render the formation of a compact estate impossible, and if the parties affected by the partition decline to permit of the transfers necessary for curing such defect.

Where no lands held in common, lands in severalty may be declared a separate estate.

XXXII. Where there may be no lands held in common, the lands in severalty, held by the applicant for partition, or assigned to him by the Collector under the provisions of this Act, shall be assessed and declared a separate estate. Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to, or directed by his order, as provided in Section XXX, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Proviso as to transfers.

XXXIII. If

Sharer failing to attend after proclamation, liable to forfeit right of objection.

XXXIII. If any sharer, after the issue of the proclamation mentioned in Section XXVI of this Act, shall fail to attend the Officer appointed to make the partition during the time the partition is being made, no objection taken by such sharer to the partition shall be heard, unless such sharer can show that his absence was not wilful, or unless for any good and sufficient reason it shall appear just and proper to allow him to be heard against the partition.

Partition may be stayed if parties so desire.

Recovery of costs.

XXXIV. If, at any time after an order shall have been passed for making a partition, it shall appear, either from the report of the Officer appointed to make the partition, or from any other information, that the parties are not desirous that the partition should proceed, it shall be competent to the Collector, with the sanction of the Commissioner, to stop the partition, and to strike the case off the file, recovering from the sharers all costs and expenses incurred up to that time.

Estates formed in course of partition to be as compact as possible.

XXXV. It shall be the duty of the Officer appointed to make the partition, so far as circumstances will admit, to take care that the estates into which the estate is divided shall consist of contiguous mehals or villages. Provided that, if the estate ordered to be divided shall not consist of a sufficient number of villages to admit of one or more entire village or villages being included in each estate, the partition of the village or villages of which the estate shall consist shall be made so as to render each estate as compact as possible.

Revenue to be assessed on each divided estate.

XXXVI. The public Revenue shall be assessed on each estate into which the property shall be ordered to be divided, in conformity to the rules contained in any law for the time being in force.

Circumstances to be considered in making partitions.

XXXVII. In selecting the villages or lands to be included in each separate estate, the advantages or disadvantages arising from situation; the vicinity of roads, Railways, navigable rivers, or canals; the nature and quality of the soil and produce; the quantity of culturable and unculturable waste land; the depth at which water may be procurable; the number of tanks and wells; the state of the embankments and water-courses,

water-courses; and any other local circumstances affecting the present, or likely to influence the future, value of the lands, shall be duly considered: and the villages or lands to be included in each estate shall be fairly and impartially selected. So far as may be practicable, and consistent with compactness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

Rule when dwelling-house belonging to one sharer, is situate on ground to be allotted to another sharer.

XXXVIII. If a dwelling-house belonging to one sharer shall be situate on any land, or in any village, which it may be necessary to include in the share of another sharer, the proprietor of such house shall be at liberty to retain it, with the offices, buildings, and grounds, immediately attached thereto, upon agreeing to pay to the proprietor of the land or village in which the same is situate an equitable rent for the ground. The limits of the ground and the rent to be paid for it shall be fixed by the Officer making the partition, and shall be stated in the paper of partition.

Rule as to tanks, wells, water-courses, and embankments.

XXXIX. Tanks, wells, water-courses, and embankments, shall be considered as attached to the land for the benefit of which they were originally made. In cases in which, from the extent, situation, or construction of such works, it shall be found necessary to continue them the joint property of the proprietors of two or more of the estates into which the estate may be divided, the paper of partition shall specify, as far as circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

Rule as to places of worship.

XL. Places of worship, which shall have been held in common previous to the partition of an estate, shall continue to be so held, unless the parties shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Officer making the partition shall enter a note of the agreement in the paper of partition.

Particulars to be contained in the paper of partition to be submitted by Officer making same.

XLI. When the Officer appointed to make the partition shall have completed the partition, and allotted the public Revenue on each of the estates into which it is proposed that the estate shall be divided, he shall prepare and submit to the Collector

Collector a paper of partition, showing how he proposes to divide the estate, and to apportion the public Revenue. This paper shall specify the names of the Mehals or villages included in each separate estate ; the gross produce of each Mehal and village for the three years immediately preceding the year in which the partition is ordered to be made ; the names of the parties to whom the several estates are allotted, and the proportion of the public Revenue proposed to be assessed on each of such estates, with any remarks regarding the mode observed in selecting the lands included in each estate, and the accounts upon which the apportionment of the public Revenue assessed thereon shall have been based, as may be necessary for the information of the Collector. The paper shall further contain a detail of the adjustments, if any, which shall have been made in respect to any tanks, places of worship, or other matters, as specified in the preceding Sections. The Officer appointed to make the partition shall also submit a map, showing the several estates into which the estate is proposed to be divided.

Map to be also submitted.

XLII. The Collector shall take into consideration the partition proposed by the Officer appointed to make the partition, and, after calling for any further information which he shall deem necessary, and disposing of any objections which shall be taken to the partition, and allotment of public Revenue, as proposed by such Officer, he shall submit a report to the Commissioner, together with such of the papers of the case as shall appear to him essential. He shall also forward a list of the papers not sent. The Collector shall record his opinion whether the proposed partition should be confirmed or modified, and in the latter case, he shall state the nature of the modification which, in his opinion, should be made.

Procedure of Collector thereupon.

XLIII. The Commissioner shall either uphold the partition proposed by the Collector, or modify the same. The decision of the Commissioner shall not be open to revision by the Civil Court, but shall be subject to appeal to the Board of Revenue. The Commissioner, before coming to a decision, may call for any additional papers, or direct any further inquiry that he shall consider necessary. He may also, if he think proper, direct that, when two or more of the estates into which it is proposed to divide the estate shall consist of the same proportions of the entire estate, the parties entitled thereto shall draw lots for the same before the Collector.

Commissioner may confirm or modify partition, subject to appeal to Board of Revenue.

And may direct division by lot under certain circumstances.

XLIV. On

Procedure by Collector on receipt of order of Commissioner, or of Board of Revenue on appeal.

XLIV. On the receipt of the order of the Commissioner, or if an appeal be preferred to the Board of Revenue, then, of the order passed on the appeal, the Collector shall cause the same to be published in his office, and in some conspicuous place in each of the estates separately constituted by such order. The Collector shall at the same time specify the date from which each of the estates shall be held to be a separate estate, and shall enter the several estates into which the estate has been divided in the Register of Estates paying Revenue to Government. The Collector shall give the several proprietors possession of the estates allotted to them, and, if necessary, may avail himself of the assistance of the Magistrate in giving possession.

Government may order new allotment of public Revenue among estates formed by partition, in case of fraud or error in original allotment being proved.

XLV. In order to prevent collusion or error in the distribution of the public Revenue assessed upon an estate which may be ordered to be divided into two or more distinct estates, if it shall be proved to the satisfaction of the Government, within twelve years from and after the date of confirmation of the partition, that the public Revenue was fraudulently or erroneously apportioned at the time of the partition, the Government shall have power to order a new allotment of the public Revenue upon the several estates into which such estate may have been divided, conformably to the principles prescribed in this Act, on an estimate of the gross produce of each estate at the time of the partition, to be made agreeably to the best evidence and information which may be procurable respecting the same. Such order shall not be liable to be contested in the Civil Court. The parties whose estates may be declared to have been under-assessed shall be required to pay to the proprietors of the estates which shall have been over-assessed the sum in which they shall be found to have been over-assessed, and in default of payment, the amount shall be leviable by the process prescribed for the recovery of arrears of rent or Revenue.

Consequence to party having interest in any estate, if he neglect to affirm or establish such interest while the estate is under attachment with a view to partition.

XLVI. If, during the time an estate is under attachment with a view to the partition of the same, any party shall neglect or omit to claim, by a suit, any right or title he may then have to the ownership or occupancy, at a fixed rent, of any land situated in such estate, or any other interest therein, such neglect or omission shall be a valid plea in bar of any suit

suit relating to such right, title, or interest, unless the party can satisfy the Court that there was good and sufficient reason for his neglect or omission to institute the suit at or before such time. Provided that this Section shall not bar any action for arrears of rent, or the enhancement or alteration of rent.

Holder of decree of Civil Court, awarding right to portion of an estate, may apply for partition, and Collector may proceed thereon under Act.

XLVII. Whenever any Court of Civil Judicature shall pass a decree, awarding to any person the proprietary right in a portion of an estate paying Revenue to Government, whether the portion so awarded shall consist of a fractional share in the whole, or a part, of the estate, or of specific lands, the decree-holder may apply to the Collector for a partition of the estate ; and on the receipt of such application, the Collector shall proceed thereupon under the provisions of this Act, which are hereby declared applicable to such applications.

Union in certain cases of severed portions of estates originally undivided.

XLVIII. If two or more estates, which may have originally formed portions of the same estate, shall come into the possession of one person, such person shall be entitled to have such estates united, and to hold them as a single estate ; or if two or more persons shall have separate possession of their respective shares of an estate which was originally held as a joint undivided estate, such persons may apply to have their shares united, and to hold them as one estate.

Application for such union how to be made, and how to be dealt with.

XLIX. The applications for the union of the estates, or of the shares of the estate, as the case may be, shall be made in writing to the Collector of the District in which the estates, or shares of the estate, are situate, and the Collector (provided he see no objection) shall comply with the application, and cause the necessary entries to be made in the records of his Office, reporting the case to the superior Revenue Authorities.

Certain provisions of Act applicable to partition cases pending at the time of its passing.

L. The provisions of this Act, so far as they relate to the completion and confirmation, or to the staying or quashing, of the partition of an estate, may be applied, at the discretion of the Collector, in all cases of the partition of estates pending at the time of the passing of this Act.

LI. The

Provisions of Act may be applied to partition of estates held free from payment of Revenue.

LI. The provisions of this Act may, in so far as the same are applicable, be applied by order of the local Government to the partition of any estate held free from the payment of Government Revenue.

Control of Collector's proceedings under Act.

LII. In the performance of his duties under this Act, the Collector shall be subject to the general direction and control of the Commissioner of the Division, and the Board of Revenue.

Orders of Collector, except in certain cases, open to revision by superior Revenue Authorities.

LIII. All orders passed by a Collector under this Act, unless otherwise provided, not being orders or decisions within the meaning of Section IX, shall be open to revision by the superior Revenue Authorities.

What other Officers may exercise powers vested in Collector by this Act.

LIV. The powers vested in a Collector by this Act may be exercised by a Deputy Collector, or other Officer, vested with the full powers of a Collector, subject to the control of the Collector of the District.

Powers to be exercised by Collector, or Officer appointed to make partition.

LV. In carrying out the provisions of this Act, the Collector shall exercise the powers described in Regulation II. 1819, Regulation VII. 1822, and Regulations IX. and XIV. 1825. Any Officer appointed to make a partition under this Act may also exercise the powers described in the foregoing Regulations, so far as the same may be applicable.

Powers of Officers exercising jurisdiction under this Act, with regard to false evidence.

LVI. If, in any case in which a Collector or other Officer shall exercise Jurisdiction under this Act, any person is guilty of the offence of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other Officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a Civil Court, when any such offence is committed before or against such Court, or when a document charged to be a forgery is given in evidence in any proceedings in such Court.

LVII. In

Board of Revenue to be guided by instructions of local Government.

LVII. In the execution of the duties vested in the Board of Revenue by this Act, the Board shall be guided by such orders or instructions as they may from time to time receive from the local Government, to whom they shall apply in all cases which shall appear to the Board not to have been provided for by the existing law.

Interpretation.

LVIII. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Territorial scope of Act.

LIX. This Act shall extend only to such parts of the North-Western Provinces of the Presidency of Fort William in Bengal as are subject to the general Regulations of that Presidency; but the Act may be extended, by order of the local Government, either wholly or in part, to any Non-Regulation Province under such Government.

Bengal Printing Company Limited.

ACT No. XX of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th March* 1863.)

An Act to enable the Government to divest itself of the management of Religious Endowments.

Preamble.

WHEREAS it is expedient to relieve the Boards of Revenue, and the Local Agents, in the Presidency of Fort William in Bengal, and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX. 1810 of the Bengal Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, Colleges, and other purposes; for the maintenance and repair of Bridges, Serays, Kuttras, and other public buildings; and for the custody and disposal of Nuzzool Property or Escheats*), and Regulation VII. 1817 of the Madras Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chuttrums, and other public buildings; and for the custody and disposal of Escheats*), so far as those duties embrace the superintendence of lands granted for the support of Mosques or Hindoo Temples, and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of Trustees or Managers thereof; or involve any connexion with the management of such religious establishments: and whereas it is expedient for that purpose to repeal so much of Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes; It is enacted as follows:—

I. So

PRICE 1 ANNA 9 PIES.

ACT No. XX of 1863.

I. So much of Regulation XIX. 1810 of the Bengal Code, and so much of Regulation VII. 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes, are repealed.

Regulations repealed.

II. In this Act words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Number.

Words importing the masculine gender shall include females.

Gender.

The words "Civil Court" and "Court" shall mean the Principal Court of Original Civil Jurisdiction in the District in which the Mosque, Temple, or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act.

"Civil Court," and "Court."

III. In the case of every Mosque, Temple, or other religious establishment to which the provisions of either of the Regulations specified in Section I are applicable, and the nomination of the Trustee, Manager, or Superintendent whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government, or any public Officer; or in which the nomination of such Trustee, Manager, or Superintendent shall be subject to the confirmation of the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

Local Government to make special provision respecting Mosques, &c., in certain cases.

IV. In the case of every such Mosque, Temple, or other religious establishment which, at the time of the passing of this Act, shall be under the management of any Trustee, Manager, or Superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, transfer to such Trustee, Manager,

Transfer to independent Trustees, &c., of all property belonging to their Trusts, &c., remaining in charge of Revenue Board or others.

Manager, or Superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue, or any local Agent, and belonging to such Mosque, Temple, or other religious establishment, except such property as is hereinafter provided ; and the powers and responsibilities of the Board of Revenue, and the local Agents, in respect to such Mosque, Temple, or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue, or any local Agent, previous to such transfer, shall cease and determine.

Procedure in case of dispute as to right of succession to vacated Trusteeship, &c.

V. Whenever from any cause a vacancy shall occur in the office of any Trustee, Manager, or Superintendent, to whom any property shall have been transferred under the last preceding Section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the Mosque, Temple, or religious establishment, to which such property shall belong, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, to apply to the Civil Court to appoint a Manager of such Mosque, Temple, or other religious establishment, and thereupon such Court may appoint such Manager, to act until some other person shall by suit have established his right of succession to such office. The Manager so appointed by the Civil Court shall have, and shall exercise, all the powers which, under this or any other Act, the former Trustee, Manager, or Superintendent, in whose place such Manager is appointed by the Court, had or could exercise, in relation to such Mosque, Temple, or religious establishment, or the property belonging thereto.

Rights, powers, and responsibilities of Trustees, &c., to whom any charge shall be transferred.

VI. The rights, powers, and responsibilities of every Trustee, Manager, or Superintendent, to whom the land and other property of any Mosque, Temple, or other religious establishment is transferred in the manner prescribed in Section IV of this Act, as well as the conditions of their appointment, election, and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue, and local Agents, given by the Regulations hereby repealed, over such Mosque, Temple, or religious establishment, and over such Trustee,

Manager,

Manager, or Superintendent, which authority is hereby determined and repealed. All the powers which might be exercised by any Board, or local Agent, for the recovery of the rent of land or other property transferred under the said Section IV of this Act may, from the date of such transfer, be exercised by any Trustee, Manager, or Superintendent to whom such transfer is made.

Appointment of Committees.

VII. In all cases described in Section III of this Act, the local Government shall once for all appoint one or more Committees in every Division, or District, to take the place, and to exercise the powers, of the Board of Revenue and the local Agents under the Regulations hereby repealed. Such Committee shall consist of three or more persons, and shall perform all the duties imposed on such Board and local Agents, except in respect of any property which is specially provided for under Section XXI of this Act.

Provision as to qualifications for Member of such Committee.

VIII. The Members of the said Committee shall be appointed from among persons professing the religion for the purposes of which the Mosque, Temple, or other religious establishment, was founded, or is now maintained, and in accordance, so for as can be ascertained, with the general wishes of those who are interested in the maintenance of such Mosque, Temple, or other religious establishment. The appointment of the Committee shall be notified in the Official Gazette. In order to ascertain the general wishes of such persons, in respect of such appointment, the local Government may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such local Government..

Every Member to be appointed for life, unless removed for misconduct, &c.

IX. Every Member of a Committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness, and no such Member shall be removed except by an order of the Civil Court as hereinafter provided.

Provision for filling up vacancies.

X. Whenever any vacancy shall occur among the Members of a Committee appointed as above, a new Member shall be elected to fill the vacancy, by the persons interested as above provided. The remaining Members of the Committee shall, as soon as possible, give

give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new Member by the persons interested as above provided, under rules for elections which shall be framed by the local Government, and whoever shall be then elected, under the said rules, shall be a Member of the Committee to fill such vacancy. If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the Civil Court, on the application of any person whatever, may appoint a person to fill the vacancy, or may order that the vacancy be forthwith filled up by the remaining Members of the Committee, with which order it shall then be the duty of such remaining Members to comply, and if this order be not complied with, the Civil Court may appoint a Member to fill the said vacancy.

No Member of a Committee to be Trustee, &c., of the Mosque, &c., under charge of such Committee.

XI. No Member of a Committee appointed under this Act shall be capable of being, or shall act, also as a Trustee, Manager, or Superintendent, of the Mosque, Temple, or other religious establishment, for the management of which such Committee shall have been appointed.

On appointment of Committee, Board and Local Agents to transfer property.

XII. Immediately on the appointment of a Committee as above provided, for the superintendence of any such Mosque, Temple, or religious establishment, and for the management of its affairs, the Board of Revenue, or the local Agents acting under the authority of the said Board, shall transfer to such Committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession, of the said Board or local Agents, and belonging to the said religious establishment, except as is hereinafter provided for, and thereupon the powers and responsibilities of the Board and the local Agents, in respect to such Mosque, Temple, or religious establishment, and to all land and other property so transferred, except as above, and except as regards acts done and liabilities incurred by the said Board or Agents previous to such transfer, shall cease and determine. All the powers which might be exercised by any Board or local Agent, for the recovery of the rent of land or other property transferred under this Section, may from the date of such transfer be exercised by such Committee to whom such transfer is made.

XIII. It

Accounts of receipts and disbursements.

XIII. It shall be the duty of every Trustee, Manager, and Superintendent of a Mosque, Temple, or religious establishment to which the provisions of this Act shall apply, to keep regular accounts of his receipts and disbursements, in respect of the endowments and expenses of such Mosque, Temple, or other religious establishment; and it shall be the duty of every Committee of management, appointed or acting under the authority of this Act, to require from every Trustee, Manager, and Superintendent of such Mosque, Temple, or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year, and every such Committee of Management shall themselves keep such accounts thereof.

Any person interested may sue in case of Breach of Trust, &c.

XIV. Any person or persons interested in any Mosque, Temple, or religious establishment, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustee, Manager, or Superintendent of such Mosque, Temple, or religious establishment, or the Member of any Committee appointed under this Act, for any misfeasance, Breach of Trust, or neglect of duty, committed by such Trustee, Manager, Superintendent, or Member of such Committee, in respect of the Trusts vested in, or confided to, them respectively, and the Civil Court may direct the specific performance of any act by such Trustee, Manager, Superintendent, or Member of a Committee, and may decree damages and costs against such Trustee, Manager, Superintendent, or Member of a Committee, and may also direct the removal of such Trustee, Manager, Superintendent, or Member of a Committee.

Nature of interest entitling a person to sue.

XV. The interest required in order to entitle a person to sue under the last preceding Section need not be a pecuniary, or a direct or immediate, interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the Trusts. Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any Mosque, Temple, or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding Section.

XVI. In

Reference to arbitrators.

XVI. In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which such suit or proceeding is pending, to order any matter in difference in such suit to be referred for decision to one or more arbitrators. Whenever any such order shall be made, the provisions of Chapter VI of the Code of Civil Procedure shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under Section 312 of the said Code.

Reference under section 312 of Civil Procedure Code.

XVII. Nothing in the last preceding Section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said Section 312 of the said Code of Civil Procedure.

Preliminary application for leave to institute suit.

XVIII. No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit. The application may be made upon unstamped paper. The Court, on the persual of the application, shall determine whether there are sufficient *primâ facie* grounds for the institution of a suit, and if in the judgment of the Court there are such grounds, leave shall be given for its institution.

Costs.

In calculating the costs at the termination of the suit, the Stamp Duty on the preliminary application shall be estimated, and shall be added to the costs of the suit. If the Court shall be of opinion that the suit has been for the benefit of the Trust, and that no party to the suit is in fault, the Court may order the costs, or such portion as it may consider just, to be paid out of the estate.

Court may require accounts of Trust to be filed.

XIX. Before giving leave for institution of a suit, or after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the Trustee, Manager, or Superintendent, or any Member of a Committee, as the case may be, to file in Court the accounts of the Trust, or such part thereof as to the Court may seem necessary.

No Civil suit to bar proceedings for Criminal Breach of Trust.

XX. No suit or proceeding before any Civil Court under the preceding Sections, shall in any way affect or interfere with any proceeding in a Criminal Court for Criminal Breach of Trust.

XXI. In

Provision for cases in which the endowments are partly for religious and partly for secular purposes.

XXI. In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character, or in which the endowment made for the support of an establishment is appropriated partly to religious and partly to secular uses, the Board of Revenue, before transferring to any Trustee, Manager, or Superintendent, or to any Committee of Management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses, and what portion shall be transferred to the superintendence of the Trustee, Manager, or Superintendent, or of the Committee, and also what annual amount, if any, shall be charged on the land or other property which may be so transferred to the superintendence of the said Trustee, Manager, or Superintendent, or of the Committee, and made payable to the said Board or to the local Agents, for secular uses as aforesaid. In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

Government not to hold charge henceforth of property for support of any Mosque, Temple, &c.

XXII. Except as provided in this Act, it shall not be lawful after the passing of this Act, for any Government in India, or for any Officer of any Government in his official character, to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any Mosque, Temple, or other religious establishment, or to take any part in the management or appropriation of any endowment made for the maintenance of any such Mosque, Temple, or other establishment, or to nominate or appoint any Trustee, Manager, or Superintendent thereof, or to be in any way concerned therewith.

Effect of Act in respect of Regulations therein mentioned, and of buildings of antiquity, &c.

XXIII. Nothing in this Act shall be held to affect the provisions of the Regulations mentioned in this Act, except in so far as they relate to Mosques, Hindoo Temples, and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

XXIV. The

XXIV. The word "India" in this Act shall denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better government of India."

"India."

Bengal Printing Company Limited.

RECORDERS' AND SMALL CAUSE COURTS' ACT. (BRITISH BURMAH).

ARRANGEMENT OF SECTIONS.

SECTION.

1. Governor-General may establish Courts for certain Towns in British Burmah.
2. Designation, appointment, &c., of Judges of such Courts.
3. Declaration to be made by Recorder.
4. Governor-General may appoint one Recorder only, or more.
5. If only one Recorder, how Court shall be held.
6. Notification by Recorder, as to time and place of holding Court.
7. Procedure in case of Recorder being unable to hold Court as notified.
8. Recorder may hold Court at other than notified times.
9. Sections VI to VIII how to be applied when there is one Recorder for two Courts.
10. Civil jurisdiction of Recorder.
    Proviso as to alteration of local limits.
11. Suits cognizable by Recorders.
    Proviso.
12. Transfer of cases from other Courts to Recorder's Court.
    Such cases how to be dealt with.
13. Rule as to trial of suits by Recorder having jurisdiction in more than one Court.
14. Seal of Courts—Use and custody of same.
15. Appointment and removal of Ministerial Officers.

SECTION.

16. Licensing of Advocates, and Rules regarding qualifications and admission.
Saving of Agent for Secretary of State, &c.
And of Advocates, &c., of High Courts.

17. License may be withdrawn.

18. Fees of Advocates, &c., subject to taxation.

19. Rules for service and execution of Process, and table of fees for same.
Publication of same.

20. Proceedings in Civil Suits how to be regulated.

21. Law as administered in Calcutta High Court, in its ordinary original Civil jurisdiction, to obtain in all suits.
Saving of certain cases.

22. In case of doubt as to certain questions, statement of case may be submitted for decision of High Court.

23. And decree may be passed contingent thereon; but pending receipt, execution not to issue.

24. Full bench of High Court to deal with cases referred.

25. And parties may appear in person, or by Advocate, &c. Transmission of Judgment of High Court, and proceeding thereupon.

26. Costs of reference to High Court.

27. Appeal to High Court in certain cases.

28. Grant of new trial on application within given time.
And review of Judgment.
Security from applicant for either.

29. Recorder may receive and dispose of all cases under certain Acts, subject to provisions of same as to jurisdiction.
And his orders in such cases not open to appeal.
No other Court to deal therewith, within the jurisdiction of Recorder.

30. Assessors in Civil Suits.

31. Appointment of Registrar.

32 Duties of Registrar

SECTION.

33. Procedure in case of plaint being considered defective in certain particulars.
Proviso.

34. Execution of Decrees by Registrar.

35. Registrar to have powers of Small Cause Court Judge in certain cases.
And may be invested by Governor-General with higher powers.

36. Suits cognizable by Registrar how to be heard, &c.
Transfer from Registrar's to Recorder's File.

37. No appeal from decision of Registrar under last Section; but in case of doubt, statement may be submitted for opinion of Recorder.
Rules applicable to such references.

38. Recorder may refer certain suits to Registrar—Rules respecting trial of same.
Reference to High Court.

39. Appeal to Her Majesty in Council in certain cases.

40. Recorder to exercise powers of Court of Session, and to hold gaol deliveries for trial of offenders.
Proviso as to European British subjects charged with offences punishable with death.

41. Commitment and trial of such subjects, when charged with offences other than those punishable with death.

42. Proceedings of Recorder as Court of Session how to be regulated.

43. Execution or commutation of sentence of death.

44. No appeal from order, &c., of Recorder in criminal case, but he may reserve points for opinion of High Court.

45. Review of case, and alteration of judgment, by High Court.

46. Stamp Duties chargeable on instruments, &c., in Recorders' Courts.

47. Commissioner may sit with Recorder in any suit, and record opinion.

48. And may, in the absence of Recorder, sit in Court and exercise all powers.

49. Recorder to keep such registers, &c., and to submit such returns, &c., as Chief Commissioner shall prescribe.

50. Interpretation of "Barrister."

BENGAL SECRETARIAT LIBRARY

ACT No. XXI OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th March* 1863.)

An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah; and to establish Courts of Small Causes in the said Towns.

Preamble.

WHEREAS the Resolution of the Governor-General in Council, dated the 31st January 1862, declares that, instead of a Judicial Commissioner for the whole Province of British Burmah, whose ordinary business can well be undertaken by the Chief Commissioner, and who, as Judge of a Special Court sitting at the Head Quarters of each Division, could not possibly dispose of the Causes arising at each place in a manner that would satisfy the suitors, or be consistent with the prompt and regular administration of Justice, there shall be established at Rangoon and Moulmein a Court to be presided over by a Barrister or Advocate of not less than five years' standing, with full powers of Civil and Criminal Jurisdiction, analogous to those now exercised by the Recorders of Prince of Wales' Island and Singapore, with the exception of the power to try cases in which European British Subjects are charged with capital offences: and whereas it is expedient to make provision for the establishment of such Court, and of a similar Court for the Town of Akyab; and also for the establishment of a Court of Small Causes in each of the said Towns of Akyab, Rangoon, and Moulmein, and to prescribe the Procedure for the said Courts, respectively; It is enacted as follows:—

Governor-General may establish Courts for certain Towns in British Burmah.

I. It shall be lawful for the Governor-General in Council to establish Courts of Judicature for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah, or for any of the said Towns, which Courts, when so established, shall be called, respectively,

respectively, the "Court of the Recorder of Akyab," the "Court of the Recorder of Rangoon," and the "Court of the Recorder of Moulmein." Such Courts shall be Courts of Record.

Designation, appointment, &c. of Judges of such Courts.

II. The said Courts, respectively, shall be held before a Judge who shall be called "The Recorder" thereof, and who shall be appointed by the Governor-General in Council, and shall be a Barrister of not less than five years' standing. Every Recorder appointed under this Act shall hold his Office during the pleasure of the Governor-General in Council.

Declaration to be made by Recorder.

III. Previously to entering upon the execution of the duties of his Office, every Recorder appointed under this Act shall make or subscribe the following declaration before such Authority or person as the Governor-General in Council may commission to receive the same:—

"I, A. B., appointed Recorder of [ ] do solemnly declare that I will faithfully perform the duties of my Office to the best of my ability, knowledge, and judgment."

Governor-General may appoint one Recorder only, or more.

IV. The Governor-General in Council may appoint only one Recorder to be the Recorder of the said three Courts, or he may from time to time appoint a separate Recorder for any one, or for any two, of the said Courts.

If only one Recorder, how Court shall be held.

V. So long as there shall be only one Recorder of the said three Courts, such Recorder shall hold his Court at each of the said three Towns of Akyab, Rangoon, and Moulmein, at stated periods. He shall hold his Court in Rangoon at such times as may be necessary; in Moulmein at least once in every three months; and in Akyab at least once in every four months.

Notification by Recorder, as to time and place of holding Court.

VI. The Recorder shall, on or before the 1st day of January in each and every year, or at such other convenient times as the Chief Commissioner of British Burmah shall direct, notify in the Official Gazettes of the Towns in which the Court

is

is to be held, the days on which he intends to hold his Court at the said Towns, respectively, during the then next ensuing twelve months : and a copy of such Notification shall be stuck up in a conspicuous part of the Court Houses in the said Towns, respectively.

Procedure in case of Recorder being unable to hold Court as notified.

VII. If the Recorder shall be unable to hold his Court at the time and place fixed in any Notification issued under the last preceding Section, he shall fix another period for holding his Court at such place, and shall publish notice of the same in the same manner, so far as circumstances will permit, in which a Notification under the said Section is directed to be published.

Recorder may hold Court at other than notified times.

VIII. Notwithstanding anything in Sections VI and VII of this Act contained, it shall be lawful for the Recorder to hold his Court at times other than those notified, as provided in the said Sections, when for any good and sufficient reason it shall appear to him necessary and proper to do so.

Sections VI to VIII how to be applied when there is one Recorder for two Courts.

IX. Whenever there shall be one Recorder for any two only of the said three Courts, the provisions contained in Sections VI, VII, and VIII of this Act shall be applied, so far as the same may be applicable, in respect of the sittings to be held by such Recorder within the Towns of the Courts of which he is Recorder.

Civil Jurisdiction of Recorder.

X. The Recorders appointed under this Act shall have and exercise Civil Jurisdiction within such local limits, in the said Towns of which they are respectively the Recorders and in the neighbourhood thereof, as may from time to time be fixed by the Chief Commissioner of British Burmah, with the approval of the Governor-General in Council; and the limits so fixed shall be published in the Official Gazettes of the said Towns. Provided that it shall be lawful for the said Chief Commissioner, with such approval as aforesaid, as often as he shall think proper, to vary or alter the limits so fixed: and, save as in this Act provided, no Court other than the Recorder's Court shall have or exercise any Civil Jurisdiction whatever, within the limits for the time being fixed as aforesaid.

Proviso as to alteration of local limits.

XI. The

XI. The Recorders appointed under this Act shall receive, try, and determine suits of every description, if in the case of suits for land or other immoveable property such land or property shall be situate, or if in all other cases the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits of the ordinary Jurisdiction of their respective Courts. Provided that the Recorders shall not take cognizance of any suit, the cognizance of which, by the ordinary Civil Courts in British India not established by Royal Charter, is barred by any Act of Parliament, or by any Regulation or Act of the Governor-General of India in Council.

Suits cognizable by Recorders.

Proviso.

XII. It shall be lawful for the Chief Commissioner to direct the transfer to any Recorder's Court, of any case which shall have been instituted in any Court in British Burmah other than a Recorder's Court. Every case so transferred shall be tried and determined by the Recorder to whose Court it is transferred, in the same manner, and under the same rules as to procedure, and in all other respects, as if the Recorder had originally had Jurisdiction in the case, and the case had originally been instituted before him.

Transfer of cases from other Courts to Recorder's Court.

Such cases how to be dealt with.

XIII. A Recorder, who is the Recorder of more Courts than one, shall, while sitting in any one of the Courts of which he is Recorder, ordinarily try no suits except such as shall have been instituted in such Court, or shall have been transferred to it by the Chief Commissioner as hereinbefore provided: but such Recorder may, if he think proper, try any suit instituted in any other of the said Courts of which he is Recorder, if the parties thereto shall join in an application to him (which shall be in writing, signed by all the parties to the suit or their agents) so to try the same.

Rule as to trial of suits by Recorder having jurisdiction in more than one Court.

XIV. A separate seal shall be made under the direction of the Governor-General in Council for each of the said Courts, and all summonses, orders, and other process issuing out of the said Courts, respectively, shall be sealed or stamped with the seal of the Court issuing the same. The said seal shall be delivered to and kept in the custody of the Recorder; but during any absence of the Recorder, or in case of the vacancy

Seal of Courts. Use and custody of same.

vacancy of the Office of Recorder, the same shall be delivered to and kept in the custody of the Registrar of the Court appointed as is hereinafter provided; and if there be no Registrar, then it shall be delivered to and kept in the custody of the Deputy Commissioner.

Appointment and removal of Ministerial Officers.

XV. It shall be lawful for the Recorder of any Court or Courts established under this Act, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General in Council, to appoint such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of Justice by the said Recorder, in such Court or Courts respectively, and the due execution of the powers and authorities given to him by this Act; and every Clerk and Officer appointed as aforesaid shall be liable to dismissal by order of the Recorder of the Court to which he is appointed: provided that no person shall be removed from any Office, the salary of which is one hundred Rupees per mensem or upwards, without the sanction of the Chief Commissioner.

Licensing of Advocates, and rules regarding qualifications and admission.

XVI. No person shall be permitted to appear or act as the Advocate of any suitor in any Court held under this Act, in any action or suit, or touching any matter whatever, unless such person shall have been previously licensed by the Recorder of such Court, to act for the suitors of such Court generally, or specially for the particular occasion; and it shall be lawful for the Recorder of every Court held under this Act, to make rules for the qualifications and admission of proper persons to act as Advocates in such Court. Provided that nothing in this Section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting, on his own behalf, or on behalf of a co-suitor. Provided also that any person, who for the time being is an Advocate, Vakeel, or Attorney-at-law of any of the High Courts of Judicature in India, shall be entitled without any license to act as an Advocate for any suitor in any of the said Courts; and that any person for the time being licensed to act generally in any one of the said Courts, shall without further license be also entitled to act generally in any other of the said Courts.

Saving of agent for Secretary of State, &c.

And of Advocates, &c., of High Courts.

XVII. The

XVII. The Recorder of any Court may, for any sufficient reason, withdraw or vacate any license which shall at any time be granted by such Recorder to any person, to act generally or specially as an Advocate under this Act.

License may be withdrawn.

XVIII. The fees to be received by any Advocate, whether general or special, licensed under this Act, or entitled to act as an Advocate for another person in any of the said Courts without a license, under Section XVI of this Act, shall at all times be subject to the control and taxation of the Recorder of the Court having Jurisdiction in the case in respect of which such fees are payable, and no fees shall be recoverable by any Advocates except such fees as shall have been allowed by the Recorder on taxation.

Fees of Advocates, &c., subject to taxation.

XIX. It shall be lawful for the Recorder of any Court or Courts established under this Act, to make and issue rules to regulate the service and execution of the processes of the Court or Courts, within the territorial limits of his Jurisdiction, and also to settle a table of fees to be allowed to the persons employed in such service or execution, and from time to time to alter any such rule or table, and the rules so made and the tables so issued shall be used and observed in the said Court or Courts ; provided that such rules and tables be not inconsistent with the provisions of any law in force, and shall, before they are issued, have received the sanction of the Chief Commissioner. All such rules and tables shall be published in the Official Gazettes of the said Towns, and shall thenceforth have the force of law until repealed or over-ruled by any Act of the Legislature, or by any rule or table subsequently issued and published with the sanction and in the manner aforesaid.

Rules for service and execution of process, and table of fees for same.

Publication of same.

XX. Save as in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in any Court established under this Act, shall be regulated by Act VIII of 1859 (*the Code of Civil Procedure*), as amended by Act XXIII of 1861, and by any other Act or Acts that may hereafter be passed for that purpose.

Proceedings in Civil suits how to be regulated.

XXI. In

Law as administered in Calcutta High Court, in its Ordinary Original Civil Jurisdiction, to obtain in all suits.

XXI. In all suits cognizable by any Court held under this Act, all questions as well of fact as of law or equity shall be dealt with and determined according to the law administered by the High Court of Judicature at Fort William in Bengal, in the exercise of its Ordinary Original Civil Jurisdiction. Provided that this Section shall not apply to any case heard and determined by any Court held under this Act, in which a native of British India is a defendant, and in which any question relating to marriage, inheritance, or succession shall be involved; but every such case, in so far as such question is concerned, shall be determined by the law or usage which would have been applied thereto, if such question had arisen in any other Court in British Burmah than a Court held under this Act.

Saving of certain cases.

In case of doubt as to certain questions, statement of case may be submitted for decision of High Court.

XXII. If in any suit, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, shall arise, on which the Recorder shall entertain any doubt, the Recorder may, either of his own motion, or on the application of either of the parties to the suit, draw up a statement of the case, and submit such statement, with his own opinion, for the decision of the High Court of Judicature at Fort William in Bengal.

And decree may be passed contingent thereon; but, pending receipt, execution not to issue.

XXIII. The Recorder may proceed in the case, notwithstanding a reference to the said High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

Full bench of High Court to deal with cases referred.

XXIV. Cases referred for the opinion of the High Court shall be dealt with by a bench of two or more Judges of that Court.

And parties may appear in person, or by Advocate, &c. Transmission of Judgment of High Court, and proceeding thereupon.

XXV. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; and the High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the proper Officer of the Court, to the Recorder,

Recorder, who shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

XXVI. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Appeal to High Court in certain cases.

XXVII. In all suits heard and determined by a Recorder under this Act, in which the amount or value of the suit shall exceed Rupees three thousand, and be less than Rupees ten thousand, an appeal shall lie to the High Court of Judicature at Fort William in Bengal, subject to the rules contained in the said Code of Civil Procedure regarding regular appeals.

Grant of new trial on application within given time.

And review of judgment.

Security from applicant for either.

XXVIII. It shall be competent to the Recorder, if he shall think fit, to grant a new trial in any suit tried by him, if applied for within three months from the date of the decision if the suit relate to any land or other immoveable property; and in all other cases if applied for within thirty days from the date of the decision. Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment, under the Code of Civil Procedure, if such review be applied for within the period allowed by the said Code for making such applications. Provided also that, in any case in which the Recorder may think it necessary to do so, he may before granting a new trial, or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review.

Recorder may receive and dispose of all cases under certain Acts, subject to provisions of same as to Jurisdiction.

XXIX. All cases and proceedings arising under Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), Act XXXV of 1858 (*to make better provision for the care of the Estates of Lunatics not subject to the Jurisdiction of the Supreme Courts of Judicature*), Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) as amended by Act IX of 1861 (*to amend the*

the law relating to Minors), or Act XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), may be received and disposed of by the Recorder of any Court established under this Act, subject always to all the rules and provisions as to Jurisdiction and otherwise in the said Acts contained respectively. Orders passed by the Recorder in cases arising under the said Acts shall not be open to appeal, but the parties shall be at liberty to contest such orders in a regular suit. No Court other than the Recorder's Court shall, within the local limits of the Jurisdiction of such Recorder's Court, receive or deal with any case or proceeding arising under any of the Acts mentioned in this Section.

And his orders in such cases not open to appeal.

No other Court to deal therewith, within the jurisdiction of Recorder.

XXX. For the trial of Civil suits under this Act, the Recorder may constitute one or more persons Assessor or Assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder. No Officer of the Recorder's Court shall be appointed an Assessor under this Section, but this prohibition shall not extend to any other public Officer.

Assessors in Civil suits.

XXXI. It shall be lawful for the Governor-General in Council to appoint, to each or any of the Recorder's Courts established under this Act, an Officer who shall be called the Registrar of the Court to which he shall be appointed.

Appointment of Registrar.

XXXII. The Registrar of the Recorder's Court shall be the Chief Ministerial Officer of the Court, and shall, subject to the provisions in the next following Section contained, receive all plaints presented to the Court; and in the absence of the Recorder, shall issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses: he shall also keep lists of all causes coming on for trial, and shall fix such days for their being heard respectively, as may seem to him fit, having regard to the period appointed for the Recorder's sittings.

Duties of Registrar.

XXXIII. If

Procedure in case of plaint being considered defective in certain particulars.

XXXIII. If the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Section 28, Section 29, Section 30, Section 31, or Section 32, of the Code of Civil Procedure, he shall not reject the plaint, but shall point out to the plaintiff wherein the plaint is defective, and shall with as little delay as possible forward the plaint to the Recorder of the Court for his orders, together with any statement which the plaintiff may think proper to make; and such plaint shall be dealt with as the Recorder shall order. Provided always that, if the defect in the plaint is capable of being cured under any of the said Sections, and the plaintiff shall be willing to amend it, it shall not be necessary for the Registrar to send the plaint to the Recorder, but such amendment may thereupon be made.

Proviso.

Execution of decrees by Registrar.

XXXIV. The Registrar shall also receive applications for the execution of decrees passed by the Recorder of the Court of which he is the Registrar, and subject to any orders which he may receive from the Recorder, shall execute such decrees in the same manner as the Recorder may execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Recorder may, of his own motion, reverse or modify any such order whenever he shall think it necessary to do so.

Registrar to have powers of Small Cause Court Judge in certain cases.

XXXV. The Registrar shall have the powers of a Small Cause Court Judge in suits of the nature of those described in Act XLII of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter)*, arising within the limits of the Jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed two hundred Rupees; but he shall exercise such powers subject to the general control of the Recorder. The Governor-General in Council may invest any Registrar appointed under this Act, with Jurisdiction to hear and determine suits of the nature cognizable by him as a Small Cause Court Judge under this Section, in which the amount or value of the claim does not exceed five hundred Rupees.

And may be invested by Governor-General with higher powers.

XXXVI. The

XXXVI. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits, and execute the decrees made therein, in such manner as is prescribed in the said Act XLII of 1860; and subject to such rules as to procedure and otherwise, in all respects, as are in the said Act contained. Provided that the Recorder, whenever he thinks proper, may transfer to his own file any suits on the file of the Registrar, and may hear and determine the same, subject to the rules as to procedure and otherwise hereinbefore mentioned.

Suits cognizable by Registrar how to be heard, &c.

Transfer from Registrar's to Recorder's File.

XXXVII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him under the last preceding Section; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, he shall be at liberty to state a case for the opinion of the Recorder, in like manner as the Recorder may, under Section XXII of this Act, state a case for the opinion of the High Court of Judicature at Fort William in Bengal; and all the rules and provisions hereinbefore contained, relative to the stating of a case by the Recorder, shall apply *mutatis mutandis* to the stating of a case by the Registrar, so far as the same are applicable.

No appeal from decision of Registrar under last Section; but in case of doubt, statement may be submitted for opinion of Recorder.

Rules applicable to such references.

XXXVIII. It shall be lawful for the Recorder to refer to the Registrar of his Court any suit, not falling within the description of suits contained in Act XLII of 1860, which shall be instituted in the Court of such Recorder, and the amount or value of the property in dispute in which shall not exceed one hundred Rupees. Every suit so referred to the Registrar shall be heard and determined, and the decree made shall be executed, by him, under the same rules as to procedure and otherwise as are applicable to suits tried by the Recorder. In such suits the Registrar shall have no power to state a case to the High Court, or to the Recorder; but an appeal shall lie on questions of law and of fact, from the Registrar's decision to the Recorder, under the rules for regular appeals contained in the Code of Civil Procedure. The decision on the appeal shall be final

Recorder may refer certain suits to Registrar. Rules respecting trial of same.

Reference to High Court.

final; but the Recorder shall be at liberty to state a question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, for the opinion of the High Court, in the same manner as in cases originally tried by himself.

Appeal to Her Majesty in Council in certain cases.

XXXIX. In all suits heard and determined by a Recorder under this Act, in which the sum or matter at issue is Rupees ten thousand or upwards, or in which the judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question, to or respecting property of the value of Rupees ten thousand or upwards, an appeal shall lie to Her Majesty in Council, subject to the rules and orders for the time being in force regarding appeals to Her Majesty in Council, from decisions of the High Court of Judicature at Fort William in Bengal, in the exercise of its Ordinary Original Civil Jurisdiction.

Recorder to exercise power of Court of Session, and to hold Gaol deliveries for trial of offenders.

XL. The Recorder shall exercise all the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the territorial limits of the Civil Jurisdiction of the Court or Courts of which he is Recorder; and shall, at the place or places where such Court or Courts are held, hold Gaol deliveries at convenient periods, of which due notice shall be given in the manner prescribed in Sections VI and VII of this Act, for the trial of all persons charged with offences punishable under the Indian Penal Code, who may be committed to take their trial before his Court as a Court of Session.

Proviso as to European British subjects charged with offences punishable with death.

Provided that the Recorder shall not have power to try any European British subject charged with an offence punishable with death under the said Code. The commitment of any European British subject charged with any such offence shall be made to the High Court of Fort William in Bengal. In all other cases, the commitments made within the limits of the Jurisdiction of any Recorder's Court, for offences punishable under the Indian Penal Code, shall be made to that Court.

Commitment and trial of such subjects, when charged with offences other than those punishable with death.

XLI. If any European British subject shall be charged in British Burmah with any offence (other than an offence punishable with death under the Indian Penal Code), which a Justice of the Peace shall not be competent to punish, and there shall

shall be sufficient grounds for committing him for trial, such European British subject shall be committed to take his trial before the Recorder, and shall be tried by the Recorder of the Court held within the Division of British Burmah in which either such European British subject shall have been arrested, or in which the offence with which he is charged shall have been committed; that is, to say, before the Recorder at Rangoon if the arrest took place or the offence were committed in Pegu; before the Recorder at Akyab if the arrest took place or the offence were committed in Arracan; and before the Recorder at Moulmein if the arrest took place or the offence were committed in the Tenasserim Provinces.

Proceedings of Recorder as Court of Session how to be regulated.

XLII. The proceedings on trials held by the Recorder as a Court of Session under this Act shall be regulated by the Code of Criminal Procedure, and shall be subject to all the provisions of this Act, in so far as the same may be found applicable.

Execution or commutation of sentence of death.

XLIII. If on any trial, sentence of death shall be passed by the Recorder, such sentence shall not be carried into execution until it shall have been confirmed by the Chief Commissioner. It shall be lawful for the Chief Commissioner, in any case in which it shall seem proper to him so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

No appeal from order, &c., of Recorder in criminal case, but he may reserve points for opinion of High Court.

XLIV. No appeal shall lie from any order or sentence passed by the Recorder in any Criminal case. But it shall be at the discretion of the Recorder to reserve any point or points of law for the opinion of the said High Court.

Review of case and alteration of judgment by High Court.

XLV. On such point or points of law being so reserved, as in the last preceding Section mentioned, or on its being certified by the Advocate General at Fort William that, in his judgment, there is an error in the decision of a point or points of law decided by the Recorder, or that a point or points of law which has or have been decided by the said Recorder should be further considered, the said High Court shall have full power and authority to review the case, or such

such part of it as may be necessary, and finally determine such point or points of law; and thereupon to alter the sentence passed by the Recorder, and to pass such judgment and sentence as to the said High Court shall seem right.

Stamp Duties chargeable on instruments, &c., in Recorder's Court.

XLVI. The Stamp Duties prescribed by Schedule B annexed to Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*), for Instruments and Writings in the Sudder Court, shall be chargeable on Instruments and Writings in the Courts of the Recorders established under this Act, if the amount or value of the claim exceed one thousand Rupees, or if the case be an appeal. The foregoing limitation as to amount shall not extend to petitions of plaint. For such petitions, whether the suit be tried by the Recorder or the Registrar of the Court, and for Certificates granted under Act XXVII of 1860, the Duty prescribed by the said Schedule B shall be chargeable. For copies of decrees in suits in which the amount or value of the claim does not exceed one thousand Rupees, as well as for copies of judgments and orders, the same Duty shall be chargeable as prescribed by the said Schedule B for copies of decrees, judgments, and orders passed or made by a Court below the Sudder Court. On Instruments and Writings in all other cases, as well in the Recorders' Courts, as in the Courts of the Registrars in cases cognizable by those Officers, on which a Duty of eight annas is prescribed by the said Schedule B, the Duty chargeable shall be eight annas.

Commissioner may sit with Recorder in any suit, and record opinion.

XLVII. The Commissioner of the Division within which the said Town of Akyab, Rangoon, or Moulmein, is situated, may sit with the Recorder in the trial and hearing of any Civil or Criminal case arising within the limits of his Division; and may record his opinion in any case in which he may so sit.

And may, in the absence of Recorder, sit in Court and exercise all powers.

XLVIII. If there shall for the time being be no Recorder, or if the Recorder of any of the said Courts shall at any time, from sickness, or from being absent on leave, or other cause, be unable to attend to the duties of his Office, it shall be lawful for the Commissioner of the Town wherein such Court is situate to sit in such Court, and to exercise all the powers vested by this Act in the Recorder, but subject to all the rules, provisions, and limitations, herein prescribed and declared. Provided that no Commissioner shall act as Recorder, or exercise

any

any authority under this Section, without the sanction of the Chief Commissioner first obtained.

Recorder to keep such registers, &c., and to submit such returns, &c., as Chief Commissioner shall prescribe.

XLIX. The Recorder shall keep such Registers, and Books and Accounts, and submit to the Chief Commissioner such statements and returns of the work done in his Court, on the Civil and Criminal sides, as may be prescribed by the said Chief Commissioner, with the approval of the Governor-General in Council. The Recorder shall also comply with such requisitions as may be made by the Governor-General in Council, or by the Chief Commissioner, for records.

Interpretation of "Barrister."

L. The word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland; or members of the Faculty of Advocates in Scotland; or Advocates of any High Court, or Colonial Supreme Court, authorized by Royal Charter to admit Advocates.

Bengal Printing Company Limited.

WORKS OF UTILITY BY PRIVATE PERSONS & COMPANIES ACT.

ARRANGEMENT OF SECTIONS.

AS TO THE CONSTRUCTION OF THE ACT.

SECTIONS.

1. Interpretation.
2. What to be deemed works of public utility.
3. Governor-General may vest certain Officers with powers conferred by this Act on local Government.

AS TO THE PRELIMINARY PROCEEDINGS TO BE TAKEN, AND THE REGISTRATION OF WORKS.

4. Promoters to make preliminary application, accompanied by statement.
5. Local Government may reject application, or call for further information, &c
6. Issue of Certificate authorizing preliminary Survey.
   Terms of Certificate.
   Authority conveyed thereby.
   Proviso limiting authority.
   Liability for offences.
7. Deposit of caution money may be required before issue of Certificate.
   Re-fund of Surplus.
8. Cancelment of Certificate.
9. Publication of preliminary application, &c., by promoters, and supply of copies to Collectors, &c.
   Amended applications.
10. Publication by Collector.
11. Local Government to decide, after stated interval, whether work may be provisionally registered or not.
12. And before deciding, in case of continuation or branch Railway, or Tramway, to allow time for opposition, &c.
13. And may also appoint a Commission to inquire into particulars.
   Powers of Commission.

SECTIONS.

14. On Report of Commission, Local Government to decide as to registry.
15. And to prescribe conditions to be imposed on promoters, before declaring decision.
16. Duration of provisional registry, and right to have it made definitive.
17. Promoters to deposit caution money before definitive registry.
18. Also to complete agreement, under conditions.
Publication of agreement, and declaration of registry.
19. Definitive registry of work, undertaken under agreement entered into before passing of Act.
Proviso.
20. Local Government may apply land, &c., for purposes of public work under Act.
Proviso.
21. Local Government may, with consent, vary conditions.
Proviso.
22. After definitive registry, local Government may issue Certificate authorizing Surveys, &c.
Terms of Certificate.
Proviso limiting authority.
Liability for offences.
23. On completion of Surveys, &c., promoters to submit drawings, &c.
Appointment of Commissioners to examine same, and settle details.
24. Commissioners how to proceed.
May call for variation of project, &c.
Provisions for case of promoters not agreeing thereto.
25. Extension of periods allowed for notices, &c.

AS TO THE TAKING LANDS, THE TITLE THEREIN AND THE PAYMENT THEREFOR.

26. On settlement of boundaries, &c., local Government to issue declaration as to land being required.
And may thereafter proceed to take the same.
27. Rule as to boundaries, plans, and measurements.
28. Preliminary proceedings, and declaration by local Government, as to land required for extension of, or addition to, work under Act.
Proviso.
29. Taking land for temporary purpose.
30. Rights, powers, and responsibilities of local Government as to land taken under Act.
31. Promoters when to be placed in possession of land.
32. Expenses to be paid by promoters.
Amount of same how to be determined and recovered.
33. Liability of promoters for damage done in preliminary operations.
Provision for satisfaction of claims on account of damage.

AS TO THE PUBLIC USE OF WORKS.

34. Works under Act how far available for public use.
Courts may take cognizance of conditions relating to same, and owners may be sued for damage resulting from neglect.
35. Powers of owners as to tolls for use of their works.
Proviso.

AS TO THE CONSTRUCTION OF THE WORKS, AND THE INSPECTION OF THE SAME.

36. Inspection of works.
37. If report of Inspector show cause, local Government may order use of work to be suspended until defects are remedied.
38. Local Government may direct construction of subsidiary works.
And in default of compliance, may stop work.
39. Saving as to matters at variance with special conditions.
40. Fixed structures, &c., on Railway of certain gauge to be of standard dimensions.
41. Act XVIII of 1854 applicable to Railways under this Act.
Proviso as to fences.
42. Decision of local Government on questions concerning public safety, &c.
43. Provision as to junction of Railway under Act, with pre-existing line.
As to expenses.
44. Local Government to determine differences between owners of lines joined, connected, or used in common.
Proviso.

AS TO THE MAKING OF BYE-LAWS.

45. Power of owners to make Bye-laws and Regulations.
Subject to approval and alteration.
Proviso.
46. Publication of Bye-laws, and notification of substance of same.
47. Provision as to Bye-laws in the case of a Railway under Act, of 5½ feet gauge.

AS TO THE LIEN OF THE GOVERNMENT ON ANY WORK.

48. Lands for work under Act, and fixtures thereon, not liable to seizure for debt, nor alienable by promoters, without consent of local Government.
49. Right of local Government to terminate contracts with promoters in certain cases.
And to re-enter and take possession of lands, &c.
Saving of moveable property in certain cases.
Proviso.

SECTIONS.

AS TO MINES NEAR ANY WORK.

50. Provision as to Mines lying under land taken under Act.
51. And to working of Mines under or near work under Act. Proviso as to compensation.

AS TO OFFENCES AND THE RECOVERY OF PENALTIES.

52. Certian offences punishable under Penal Code.
53. Recovery of penalties for offences under Bye-laws.

ACT No. XXII of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th March* 1863.)

An Act to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken.

Preamble.

WHEREAS it is expedient to enable the Government to take land for the construction of works of public utility by private persons or Companies; and whereas it is proper, at the same time, to protect the rights of all persons from whom land shall be so taken, or be proposed to be taken; and also to determine the manner in which such works may be undertaken, and shall be managed after their construction; as well as to secure to the public, under suitable regulations, the use of works constructed on land so taken; It is enacted as follows :—

AS TO THE CONSTRUCTION OF THE ACT.

Interpretation.

I. The following words and expressions shall have the several meanings hereby assigned to them, unless when a contrary intention appears from the context.

Number.

Words in the singular number shall include the plural, and words in the plural shall include the singular.

Gender.

Words importing the masculine gender shall include females.

"The Work."

The words "the Work" shall signify the public work proposed to be undertaken.

The

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PRICE 4 ANNAS AND 6 PIES.

The words "Local Government" shall mean the head of the Executive Administration of the Province in which the public work is proposed to be constructed.

"Local Government."

The words "the Collector" shall include any officer exercising, by authority of Government, the duties of a Collector of Land Revenue, by whatever name his office may be designated.

"The Collector."

The words "the Promoters" shall mean the person or persons who propose to construct the work, or are empowered to construct it, whether a single person or a Company.

"The Promoters."

The words "Work under this Act" shall imply a work definitively registered as hereinafter provided by this Act.

"Work under this Act."

The words "the Owners" or "the Company" shall signify the parties in charge of any public work under this Act, or referred to in this Act, whether as promoters, proprietors, lessees, agents, assignees, or otherwise, and whether a single person or a Company.

"The Owners."
"The Company."

The word "Lands" shall include messuages, lands, tenements, and hereditaments, of any tenure.

"Lands."

The word "Conditions" shall signify the special conditions of agreement, between the promoters or owners of a work under this Act and the Government, referred to in Section XV of this Act.

"Conditions."

The word "Toll" shall include any rate, or charge, or other payment, to be made for any use of a work under this Act, or for any service performed in connection with the use of any such work.

"Toll."

II. A work of public utility within this Act shall be held to mean any bridge, road, railroad, tramroad, canal for irrigation or navigation, work for the improvement of a river or harbour, dock, quay, jetty, drainage work, or electric telegraph ; also all works subsidiary to any such work. It shall be lawful for the Governor-General in Council, from time to time, by a declaration to be made to that effect, and published in the Official Gazette, to order that any other class of works, or any particular work other than those named above, shall be included among works of public utility within this Act.

What to be deemed works of public utility.

III. It

III. It shall be lawful for the Governor-General of India in Council, to vest the principal Executive Officer of any territory under the immediate administration of the Governor-General in Council, with any or all of the powers vested by this Act in the Local Government of such territory.

Governor-General may vest certain Officers with powers conferred by this Act on Local Government.

AS TO THE PRELIMINARY PROCEEDINGS TO BE TAKEN, AND THE REGISTRATION OF WORKS.

IV. The promoters of any work of public utility, who shall desire to proceed under this Act, shall make a preliminary application in writing to the Local Government, explaining the general object and nature of the work, and its intended locality. Every such application shall further be accompanied by a statement of the estimated cost of the construction of the said work, and the mode in which the promoters propose to provide the funds for constructing, maintaining, and working, the same.

Promoters to make preliminary application, accompanied by statement.

V. If the Local Government shall not be satisfied with any such application, or statement, it may reject it; or it may call on the promoters to supply any further information, or to amend such application, or statement, on any point on which such further information or amendment shall to the Local Government seem requisite.

Local Government may reject application, or call for further information, &c.

VI. If the promoters shall desire to undertake any preliminary survey on account of the proposed work, before preparing and submitting the statement aforesaid, they shall declare the same in their preliminary application; and it shall be lawful for the Local Government, if satisfied of the expediency of permitting such survey, to issue a certificate authorizing the same. Such certificate shall declare the names of the promoters entitled to use it; the time for which it shall be in force, and the District or Districts or locality for which it shall be valid; and shall contain such further regulations, for the guidance of the persons using the said certificate, as to the Local Government shall seem fit. The promoters named in such certificate, and such other persons as the promoters shall name, in a list to be furnished to the Chief Officer charged with the Executive

Issue of certificate authorizing preliminary survey.

Terms of certificate.

Authority conveyed thereby.

Executive Administration of each District in which the proposed work is to be constructed, shall be authorized to enter upon any lands, in the manner and for the time declared in such certificate, to undertake any survey or other investigation necessary for the proper prosecution of the proposed work; and while acting under the authority given in the said certificate, such promoters and other persons aforesaid shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code. Provided that such promoters and other persons shall not be authorized to enter any house, or building, or the curtilage of any house, or enclosed garden, without the assent of the occupier; or to cut down any tree, or otherwise injure or destroy any property. Provided also that such promoters and other persons aforesaid shall, while acting under the authority of such certificate, be liable as public servants, for any offence described in Chapter IX of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence.

Proviso limiting authority.

Liability for offences.

VII. It shall be lawful for the Local Government, before issuing a certificate as aforesaid, to call on the promoters to deposit, as caution money, such sum, and in such manner, as the Local Government shall in each case determine; to be applied by the Local Government to make good any damage done in the course of such survey, by the promoters or other persons using the said certificate. The promoters shall be entitled, on their demand, to receive back, after the expiry of such certificate, and after the payment of any claim for damage which shall have been proved to the satisfaction of the Local Government, any surplus remaining in the hands of such Government.

Deposit of caution money may be required before issue of certificate.

Refund of surplus.

VIII. It shall be lawful for the the Local Government, at any time prior to the provisional registration of a public work under this Act as hereinafter provided, to cancel a certificate granted under Section VI of this Act, if it shall appear to such Local Government that the powers granted by such certificate have been abused, or for any other sufficient reason.

Cancelment of certificate.

IX. The

IX. The promoters shall, at the time when they submit their preliminary application to the Local Government, publish the same, and if they so desire, the statement that accompanies it, in the Official Gazette, and also, if possible, in at least two Newspapers (one of which shall be in English) in the Province in which the work is proposed to be executed ; and shall repeat such publication, at least six times, within a period of two months from the date of submission of such application to the Local Government : the promoters shall further cause to be delivered, with all reasonable despatch, and within a period not exceeding two months, to the Collector of every District in which any part of such work is proposed to be constructed, or such other Officer as the Local Government shall from time to time direct, six copies of such application, with a faithful translation of the same into the vernacular language of the District ; and shall in like manner publish from time to time and deliver as aforesaid, copies and translations of any amended applications submitted to the Local Government.

Publication of preliminary application, &c., by promoters, and supply of copies to Collectors, &c.

Amended applications.

X. The Collector or other Officer as aforesaid shall, on receipt of the preliminary application, publish the same in English, and in the Vernacular language of the District, in the localities where the work is proposed to be constructed, in such manner as to him seems best.

Publication by Collector.

XI. At any time not sooner than four months after the receipt of the said application, or if the application be amended, then within four months after the receipt of such amended application, the Local Government, on being satisfied by the promoters that the above conditions have been complied with, shall be authorized to consider finally such application, and any objections that shall have been raised against the construction of the proposed work ; and to declare whether the said work may be provisionally registered under this Act or not.

Local Government to decide, after stated interval, whether work may be provisionally registered or not.

XII. Before declaring that any work may be provisionally registered under this Act, being a Railway, or tramway, in continuation of or forming a branch of any existing line ; or being a line that might reasonably be expected to be united with any existing Railway, either as a continuation, or a branch ;

And before deciding, in case of continuation or branch Railway, or tramway, to allow time for opposition, &c.

branch ; and at the same time being at some one point within fifty miles distance of such existing Railway, the Local Government shall afford, to the owners of such existing line, reasonable time and opportunity to declare whether they offer any opposition to the registration of the proposed line ; and on a full consideration of such opposition, and of the application of the promoters, and of any objections aforesaid, and of the relative public advantages of all proposals made in the matter, the Local Government shall be authorized to declare its decision on the said application.

And may also appoint a commission to enquire into particulars.

XIII. Previously to deciding that the said work shall be provisionally registered under this Act, it shall be lawful for the Local Government, if it shall think fit, to appoint a Commission of one or more persons, who may be Government Officers, to enquire into the general object and nature of the said work ; its intended locality, and probable utility ; its estimated cost ; the grounds of any opposition to the said work ; and any other matter connected with the said work, on which such Local Government shall desire to be satisfied. For the purposes of such enquiry, such Commission shall have power to take evidence ; and for obtaining the attendance, and for the examination, of witnesses, may exercise the powers of a Civil Court under the Code of Civil Procedure.

Powers of Commission.

On report of Commission, Local Government to decide as to registry.

XIV. On the receipt of the Report of the Commission appointed under the last preceding Section, the Local Government shall decide if the said work shall be provisionally registered.

And to prescribe conditions to be imposed on promoters, before declaring decision.

XV. Before declaring its decision as aforesaid, the Local Government shall, subject to such general or special instructions as the Governor-General of India in Council shall, from time to time, lay down, prescribe the conditions which such Local Government shall consider it necessary to impose on the promoters, having regard to the special circumstances of each case, in respect to the provision and payment of the price of the land for the proposed work ; the construction, maintenance, or working of the same; the regulation of the use of the work, as regards the security and convenience of the public ; and such other matters as to the Local Government may from time to time seem right

right ; and the Local Government shall inform the promoters of such conditions.

Duration of provisional registry, and right to have it made definitive.

XVI. The Local Government, on causing a work to be provisionally registered under this Act, shall determine for what period, being not less than six months, such registry shall be in force. And at any time, within such period, the promoters may claim to have the registry made definitive as hereinafter provided.

Promoters to deposit caution money before definitive registry.

XVII. Unless for any cause the Local Government shall otherwise determine, the promoters, before they are entitled to claim the definitive registry of the proposed work, shall deposit with the Government, in such manner as shall be approved by the Local Government, a sum to be fixed in each case by the Local Government, but not exceeding ten per cent. on the whole estimated cost of the said work, as caution money ; to be disposed of in the manner agreed in the said conditions, unless it be otherwise dealt with as hereinafter provided. And any sum remaining in the hands of the Local Government, from any caution money lodged under Section VII of this Act, shall be held to be a payment in part of the caution money required under this Section.

Also to complete agreement, under conditions.

XVIII. The promoters, before such claim for definitive registry shall be admitted, shall further complete an agreement with the Secretary of State for India in Council, through the Government, under the conditions aforesaid, or under such other conditions as may be agreed between the said promoters and the Local Government. And thereupon the Local Government shall cause such agreement, with the conditions thereof, to be published in the Official Gazette ; and shall declare that the work is definitively registered as a public work under this Act.

Publication of agreement, and declaration of registry

Definitive registry of work, undertaken under agreement entered into before passing of Act.

XIX. It shall be lawful for the Local Government, on the application of the promoters of any public work under this Act, to cause to be definitively registered under this Act, any public work undertaken by such promoters, under an agreement entered into previously to the passing of this Act with the Secretary of State, or the Government of India, or any Local Government, as though

hough such work had been proposed to be undertaken under the provisions of this Act hereinbefore contained. Provided that, at the time of so registering any work, the Local Government shall cause the said contract to be published in the Official Gazette, with all the conditions attaching thereto; and declare that the said work has been so registered definitively.

Proviso.

XX. It shall be lawful for the Local Government to apply any land in its lawful possession, also any public road or place, for the purposes of any public work under this Act, to be constructed at the expense and risk of the promoters of such work. Provided that every such work shall be definitively registered accordingly, and that the conditions under which such work is undertaken shall be published in the Official Gazette; also that the prosecution and construction of every such work shall be subject to the provisions of Section XII of this Act.

Local Government may apply land, &c., for purposes of public work under Act

Proviso.

XXI. The Local Government may, from time to time, with the assent of the owners of any work under this Act, vary the conditions to be agreed to under Section XV of this Act. Provided that such variation shall forthwith be published in the Official Gazette; and that, after such publication, the amended conditions shall be in force in supersession of those first made.

Local Government may, with consent, vary conditions.

Proviso.

XXII. After the definitive registry of any work under this Act, it shall be lawful for the local Government, from time to time, in such wise as to it shall appear fit, to issue certificates to authorize the promoters, their servants, and agents, to enter upon any lands, and to undertake such surveys or levels, or other examinations, as may be necessary for the proper prosecution of the said work; also to dig and bore into the sub-soil, and to indicate the intended boundaries of the land to be taken, and the positions of the proposed works, by suitable landmarks; and to perform all other necessary preliminary acts of the like nature: and such certificates shall declare the names of the persons entitled to use them, the time for which they shall be in force, and the Districts or locality for which they shall be valid; and shall contain

After definitive registry, Local Government may issue certificate, authorizing surveys, &c.

Terms of certificate.

contain such further regulations, for the guidance of the persons using them, as to the Local Government shall seem fit. And while acting under the authority given in the said certificate, such persons shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code. Provided, however, that such persons shall not enter any house, or building, or the curtilage of any house, or enclosed garden, without giving twenty-four hours' notice, or without the assent of the occupier thereof; nor shall they cut down any tree, or otherwise injure or destroy any property, unless the same be essentially necessary. Provided also, that such persons, while acting under the authority of such certificate, shall be liable as public servants, for any offence described in Chapter IX of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence.

Proviso limiting authority.

Liability for offences.

XXIII. The promoters shall, on the completion of the necessary surveys and the like, submit to the Local Government such drawings, maps, and plans, of the proposed work, as well as of the land required for it, as the Local Government shall in each case require. And thereupon the Local Government shall appoint one or more Commissioners, who may be Government Officers, to examine the said drawings, maps, and plans; and to determine finally, in concert with the promoters or their agents, all matters of detail in respect of the exact position of the work, or of the parts thereof, as well as the boundaries of the land to be taken for the said work; and shall notify such appointment in the Official Gazette; and shall cause such Notification to be published in the District where the work is proposed to be undertaken, in such manner as shall seem best to the Local Government.

On completion of surveys, &c., promoters to submit drawings, &c.

Appointment of Commissioners to examine same, and settle details.

XXIV. The Commissioners appointed under the last preceding Section shall proceed at any time, but not sooner than thirty days after such Notification, to settle, in concert with the promoters or their agents, the exact position of the work, or of the parts thereof; and thereafter, with all practicable despatch, to examine the boundaries of the land proposed to be taken for the work: and the said Commissioners may call upon the promoters to make any variation in their project, and in the position of the works, or any part of them,

Commissioners how to proceed.

May call for variation of project, &c.

them, and in the boundaries of the land proposed to be taken, that may to the said Commissioners seem necessary, to secure the safety or convenience of the public, or to prevent any undue interference with private property, or for any other reasonable cause ; and any such variation, if agreed to by the promoters, shall thereon be considered to be finally adopted: but if the promoters shall not agree, the question in dispute shall be submitted to the Local Government, and the decision of the Local Government shall be final; provided that the promoters shall not be bound to carry out the proposed work, if any variation be insisted upon by the Local Government, to which the promoters will not assent.

Provisions for case of promoters not agreeing thereto.

XXV. The Local Government shall be authorized to extend the periods allowed for giving any notices, or for performing any acts, required under the foregoing Sections, as from time to time may seem to it proper.

Extension of periods allowed for notices, &c.

AS TO THE TAKING LANDS, THE TITLE THEREIN, AND THE PAYMENT THEREFOR.

XXVI. When the boundaries of the land required for the work shall have been settled as aforesaid, and the promoters shall have caused the said land to be measured, and suitable land-plans to be prepared of the same, the Local Government shall cause a declaration to be made, under the signature of a Secretary to such Government, or some Officer duly authorized to certify the orders of the Local Government, that the land aforesaid is required for the said work; and such declaration shall be conclusive that the land may be taken under this Act. After making such declaration, the Local Government may proceed to take any such land, as though it had been required to be taken at the public expense, and for a public purpose; and as though a declaration had been made as required under Act VI of 1857 (*for the acquisition of land for public purposes*).

On settlement of boundaries, &c., Local Government to issue declaration as to land being required.

And may thereafter proceed to take the same.

XXVII. The boundaries, as determined by the Commissioners, and the plans and measurements aforesaid, of the said land, when verified and found to be correct, or when duly corrected by the Collector, or other Officer, appointed to proceed under the said Act VI of

Rule as to boundaries, plans, and measurements.

of 1857, shall be held to be the boundaries, plans, and measurements, required under Section IV of the said Act, so far as the said lands are concerned.

Preliminary proceedings and declaration by Local Government, as to land required for extension of, or addition to, work under Act.

XXVIII. If at any time land shall be required for any necessary or reasonable extension of, or addition to, any work under this Act, it shall be lawful for the Local Government to make all requisite declarations for the purpose of obtaining such land under this Act, after such and only such of the preliminary proceedings and enquiries, hereinbefore required, as to the Local Government shall in each case seem sufficient for the protection of the rights of the public, and of individuals concerned. Provided that nothing shall be done contrary to the provisions of Section XII of this Act; and that all proceedings for the actual taking possession of the land shall be conducted in accordance with the provisions of the said Act VI of 1857.

Proviso.

Taking land for temporary purpose.

XXIX. Land may be taken under this Act for a temporary purpose, in like manner as under the said Act VI of 1857.

Right, powers, and responsibilities of Local Government, as to land taken under Act.

XXX. All land taken under this Act shall vest absolutely in the Local Government, as though it had been taken for a public purpose under the said Act VI of 1857 ; and it shall be lawful for the Local Government to dispose of any land taken under this Act, the whole or any part of which shall not be required for the purpose for which it was taken, in any manner that it may think fit. The Local Government alone shall be responsible for the payment of all claims on account of such land, to all persons whatever; and the promoters shall in no wise be responsible for any such payment, otherwise than to the Local Government; and then only as is herein declared and provided, and as shall be specially agreed in the conditions aforesaid.

Promoters when to be placed in possession of land.

XXXI. When all the conditions as aforesaid, applicable to the transfer of the land to the promoters, shall have been fully complied with, and not till then, the Government shall cause the promoters to be placed in possession of such land, in accordance with such conditions. The title of the Local Government,

or

or of the promoters, to such land, shall not be liable to be questioned on account of any informality in any proceeding taken under this Act.

Expenses to be paid by promoters.

XXXII. All expenses attending the proceedings of the Commissioners to be appointed under Section XXIII of this Act, and all expenses incurred by the Local Government in taking up the land required for the promoters under the said Act VI of 1857, shall be paid by the said promoters, unless otherwise specially agreed. The Local Government shall determine the sum due on account of such expenses, and shall be authorized to deduct such amount from any sum lodged as caution money as aforesaid, if it be not otherwise paid by the promoters; and any sum remaining unpaid, both as aforesaid, and on account of land or compensation, for which the promoters are liable under the said conditions, may, on the order of the Local Government to that effect, be levied by distress and sale on the said promoters, in the manner provided for distress and sale under Civil process.

Amount of same how to be determined and recovered.

Liability of promoters for damage done in preliminary operations.

Provision for satisfaction of claims on account of damage.

XXXIII. The promoters shall further be liable for all damage done in any of their preliminary operations, and shall duly satisfy and pay all claims of this description; and if, at the time of taking possession of the land required for the promoters, it shall appear that any such claim remains unsatisfied, the Collector, or other Officer, acting under the said Act VI of 1857 in respect of such land, shall be authorized to determine all such claims summarily, as though they had been claims arising under the said Act; and all payments on account of such claims shall be made good by the promoters as under the last preceding Section.

AS TO THE PUBLIC USE OF WORKS.

Works under Act how far available for public use.

XXXIV. Every work under this Act shall be available for the use of the public in accordance with, and to the extent provided by, the conditions aforesaid, or any Act at the time being in force, but not otherwise; and after the publication of the conditions relating to any such works, in the Official Gazette, all Courts may take judicial notice of the same; and it shall be lawful for any person whatsoever to sue the owners of such work, for any damage he may incur by reason of any neglect of the said conditions, by the said owners, in

Courts may take cognizance of conditions relating to same, and owners may be sued for damage resulting from neglect.

respect

respect of any such public use of such work, as though such person had been a party to the said conditions.

Powers of owners as to tolls for use of their works.

XXXV. The owners of any work under this Act shall be authorized to levy such tolls, in such manner, as shall be fixed in accordance with the conditions aforesaid ; also to refuse the use of such work, and to refuse to perform any service in connection therewith, unless such tolls shall be paid in the manner fixed aforesaid ; as well as to detain any thing or animal on which such tolls shall be due, and to sell the same, if the said tolls shall remain unpaid after a reasonable time has been allowed to elapse for the payment of the same. Provided that no such tolls shall be demanded or taken at any place, unless proper tables and lists of such tolls be exhibited at such place, in the manner fixed as aforesaid.

Proviso.

AS TO THE CONSTRUCTION OF THE WORKS, AND THE INSPECTION OF THE SAME.

Inspection of works.

XXXVI. The Local Government may appoint Inspectors, to inspect any work under this Act, also all things appertaining thereto, and to the working of the same ; but not books or documents, otherwise than as shall be provided in the conditions aforesaid. The owners of such work, and all persons authorized by them to use the same in connection with any public use of the said work, and their servants and agents, shall be bound to afford to such Inspectors all reasonable facility for their inspection, and all such information as may be reasonably required by them.

If report of Inspector show cause, Local Government may order use of work to be suspended until defects are remedied.

XXXVII. If it appear to the Local Government, upon the report of any Inspector, that the use of any work under this Act cannot be continued without danger to the public, or to the persons employed thereon ; or that rules, adequate to the protection of the public under the provisions of this Act, have not been framed and put in force ; or that the conditions agreed upon under Section XV of this Act have not been carried out, the Local Government may order that all defects shall be made good within a reasonable specified time ; and in default of the owners of such work complying with such order, within such time, or such further time as the Local Government shall appoint, the Local Government shall be empowered to direct that the use of such work shall be

be suspended, until the defects aforesaid shall be remedied to the satisfaction of the Local Government.

Local Government may direct construction of subsidiary works.

XXXVIII. The Local Government may, at any time, on the report of an Inspector during the construction of any work under this Act, direct the promoters to construct, in connection therewith, such culverts, bridges, tunnels, drains, or other works, as may be considered by the Local Government to be necessary, to continue to the public any roads, or rights of way, or easements, or the use of any water theretofore available; and to make due provision for the irrigation and drainage of the country, so as to prevent the same from being impeded, or unnecessarily altered, by the construction of the said work. If default be made in complying with any directions given under the provisions of this Section, the Local Government may order the prosecution of the work to be stopped, until such directions shall be complied with to the satisfaction of the Local Government.

And in default of compliance, may stop work.

Saving as to matters at variance with special conditions.

XXXIX. Nothing in the last preceding Section shall be construed to render the promoters liable to construct any work, or to undertake any thing, at variance with the special conditions of agreement under Section XV of this Act.

Fixed structures, &c., on Railway of certain gauge, to be of standard dimensions.

XL. The owners of every Railway under this Act, being of the gauge of five feet six inches, shall be bound, unless specially exempted by the Governor-General of India in Council, to erect all the fixed structures, and to construct all the rolling stock, in conformity with the standard dimensions determined in that behalf from time to time by the Governor-General of India in Council; and it shall be lawful for the Local Government to order the said owners to make good all defects in such structures, or rolling stock, and to suspend their use until such defects shall be made good to the satisfaction of the Local Government.

Act XVIII of 1854 applicable to Railways under this Act.

Proviso as to fences.

XLI. The provisions of Act XVIII of 1854 (*relating to Railways in India*), shall apply to all Railways under this Act; provided that, in respect of such Railways, the Local Government shall be authorized to determine, from time to time, the extent to which fences shall be constructed under Section

tion XX of the said Act XVIII of 1854, and that the owners of such Railways shall not be liable to maintain fences, under the said Section, otherwise than as shall be so determined.

Decision of Local Government on questions concerning public safety, &c.

XLII. In case any doubt shall at any time arise, as to the necessity for constructing or altering any work, to ensure the safety of the public, or to provide for established public rights of way, or other public rights of any sort, in connection with any work under this Act, the decision of the Local Government on such subject shall be final, and shall not be liable to be called in question in any Court of Justice.

Provision as to junction of Railway under Act with pre-existing line.

XLIII. If the owners of a Railway under this Act shall desire to form a connection with any existing Railway of the same gauge, the owners of the new line shall be authorized to call on the owners of the old line to effect the junction; and if the owners of the old line shall not proceed to effect the junction within a reasonable time, the Local Government, on being satisfied that the junction may be made with safety to the public, and without injury to the existing Railway, or detriment to the traffic thereon, may authorize the owners of the proposed line to form the junction, and to do all necessary acts in that behalf, and to lay down such additional lines of rails, points, and crossings, as may be necessary for the purpose, at such time and in such manner as the Local Government shall direct. Provided that, if the junction be effected by the owners of the previously existing Railway, the expense of forming the junction, of supplying all necessary works, and of keeping in repair and renewing the same, shall be paid by the owners of the new line.

As to expenses.

Local Government to determine differences between owners of lines joined, connected, or used in common.

XLIV. If any difference shall arise, as to the terms on which the traffic of a branch or junction line of Railway under this Act shall pass over, or upon, any other line with which it shall be connected; or as to the manner and times of conducting the traffic, or of regulating the same, over the two lines, or either of them; or as to any matter touching any line under this Act, used in common by two or more Companies, the Local Government shall be authorized, on the application of either or any one of the said Companies, to hear and determine

determine all such differences; and any order given by the Local Government in such a case shall be final and binding on all parties. Provided that no order shall be so given at variance with any condition of any agreement, between the Government and any of the said Companies, that shall be applicable to the said lines of Railway.

Proviso.

AS TO THE MAKING OF BYE-LAWS.

Power of owners to make Bye-Laws and Regulations.

XLV. It shall be lawful for the owners of any work under this Act, to make Bye-Laws and Regulations for the guidance of their servants and agents, and of persons employed by them, and for the maintenance of order in the use of such work; and to provide for the safety and convenience of the public or of the persons employed on such work: and all such Bye-Laws and Regulations shall be subject to the approval of the Local Government; and when so approved all Courts and Magistrates shall take judicial notice of the same; and the Local Government shall be authorized to cause any alterations to be made in the Bye-Laws and Regulations, so made and approved, as to the Local Government shall from time to time seem proper. Provided that such Bye-Laws and Regulations be not repugnant to any Law in force in the British Territories in India; and that no penalty shall be attached to the infringement of any such Bye-Law or Regulation, exceeding a fine of fifty Rupees.

Subject to approval and alteration.

Proviso.

Publication of Bye-Laws, and notification of substance of same.

XLVI. Such Bye-Laws and Regulations affecting the public shall be published, and the substance of them shall be notified, in such places on the said work, and in such manner, as the Local Government shall from time to time approve or direct; and no penalty shall be recoverable under such Bye-Laws or Regulations, unless the same shall have been published and kept published as aforesaid.

Provision as to Bye-Laws in the case of a Railway under Act, of 5½ feet gauge.

XLVII. In the case of a Railway under this Act, being of the gauge of five feet and six inches, it is further provided that the Bye-Laws and Regulations shall, unless the Governor-General of India in Council shall otherwise permit, conform in every respect to the Regulations for Railway Companies under the said Act XVIII of 1854.

XLVIII. No

AS TO THE LIEN OF THE GOVERNMENT ON ANY WORK.

Lands for work under Act, and fixtures thereon, not liable to seizure for debt, nor alienable by promoters, without consent of Local Government.

XLVIII. No lands taken or supplied by Government for any work under this Act; no tree, building, or structure standing on such lands; no machinery nor permanent way fixed to the soil on such lands; nor anything whatsoever on which the Local Government shall be entitled to re-enter, or of which it shall be entitled to take possession, without payment, on the determination from any cause, of the agreement between the Local Government and the promoters, under the conditions aforesaid, shall, without the consent of the Local Government, be liable to be seized or applied in satisfaction of any debts or liabilities of any sort of the promoters; nor, without such consent, shall the promoters alienate the same, or any part thereof, in any way not provided for, or consonant with such agreement or conditions.

Right of Local Government to terminate contracts with promoters in certain cases.

And to re-enter and take possession of lands, &c.

XLIX. If the owners of a work under this Act shall voluntarily determine to wind up their affairs; or shall be so directed by an order of Court; or shall abandon or determine to abandon such work; or shall commit an act of Bankruptcy or Insolvency, it shall be lawful for the Local Government thereupon to terminate all contracts then existing between it and the promoters, in respect of such work; and to re-enter upon, and take possession of, all things whatsoever to which the Local Government shall be so entitled, under the conditions of such contracts; also of all lands taken at the public expense, or supplied to the said promoters free of cost; together with all trees, buildings, and structures, standing on such lands; as well as all machinery and permanent way fixed to the soil on such lands. Provided that nothing shall be so taken, which shall be expressly excluded from such liability under the conditions aforesaid. But the Local Government shall be bound to surrender, to a lawful claimant, all moveable property of which it shall at any time obtain possession from the promoters otherwise than by purchase, which shall not have been fully paid for by the promoters; or in lieu of such surrender, if the Local Government shall so determine, to satisfy all just outstanding claims on account of such property: provided that no such surrender shall be obligatory, and no such claim shall be entertained, in respect of any thing that shall have been delivered to the said promoters more than twelve months before

Saving of moveable property in certain cases.

Proviso.

before the date of such surrender being required, or of such claim being made known to the Local Government.

AS TO MINES NEAR ANY WORK.

Provision as to mines lying under land taken under Act.

L. Whenever land shall be taken under this Act, for the construction of any work, the taking thereof shall not be held to convey, or include, the right to any mine of coal, or other minerals, lying under such land; except only such part thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless compensation for the same shall have been expressly allowed in the award made in favor of the persons interested in the land.

And to working of mines under or near work under Act.

LI. If the owner, lessee, or occupier, of any mine of coal, or of any other mineral, lying immediately under any work under this Act, or within forty yards therefrom, shall work the same, it shall be competent to the Local Government, on the application of the promoters of such work, to require such person to abandon such working; or so to work the same as not to endamage the said work, and to construct the works necessary to make it safe. Provided that compensation shall be awarded to such owner, lessee, or occupier, in the manner provided for in the said Act VI of 1857, for any loss sustained by him from being compelled to abandon or alter his mode of working the mine; and also for any necessary works constructed by him (when so required as aforesaid) in order to prevent damage to the said work; but all damage or loss to the promoters, arising from any improper working of such mines, shall be at the risk of the owners, lessees, or occupiers, of the said mines; and shall be made good by them.

Proviso as to compensation.

AS TO OFFENCES, AND THE RECOVERY OF PENALTIES.

Certain offences punishable under Penal Code.

LII. Whoever shall obstruct, or commit any contempt of the lawful authority of, any public servant in the discharge of any function, or in the performance of any thing undertaken, under this Act; or shall commit mischief by destroying, defacing, or removing, any land-mark fixed by the authority of any such public servant, shall be punishable under the provisions of the Indian Penal Code.

LIII. All

Recovery of penalties for offences under Bye-laws.

LIII. All penalties for offences under the Bye-laws and Regulations aforesaid, shall be recoverable in the manner provided for offences punishable by fine only, in the said Act XVIII of 1854.

Bengal Printing Company Limited.

ACT No. XXIII of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th March* 1863.)

An Act to provide for the adjudication of claims to waste lands.

Preamble.

WHEREAS it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands; It is enacted as follows :—

Provision for inquiry into claims to land, or objections to sale of same.

I. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Collector of the District in which such land is situate, or other Officer performing the duties of a Collector of Land Revenue in such District by whatever name his Office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

Procedure in such cases.

II. The Collector or other Officer as aforesaid, shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection

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tion of the claim or objection; and if the land is proposed to be sold, for the sale of the same; subject to any condition or reservation which, to such Collector or other Officer as aforesaid, shall appear to be proper. If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

Pending enquiry, sale, &c., to be postponed.

III. Pending an enquiry into any claim or objection under the last preceding Section, the Collector or other Officer as aforesaid shall postpone the sale or other disposition of the land; and if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

Sale to be stopped if claim appear to be established, but may afterwards be proceeded with.

IV. If the Collector or other Officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land: but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued by the Local Government to try the claim or objection, as provided in Section VI of this Act, the claimant or objector shall fail to establish the same.

Procedure after passing of order in the case.

V. If the Collector or other Officer aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector; and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other Officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other Officer as aforesaid, that he intends to contest such order, the order shall be final. If the claimant or objector shall, within the time allowed, give such notice, the Collector or other Officer as aforesaid shall immediately make a report to the Board of Revenue, or other superior Revenue Authority; and shall forward with such Report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of

Report to Revenue Board.

of the claim or objection ; and such Board, or other Authority, on the receipt of such Report, and after calling for any further information which it may consider necessary, may confirm, modify, or reverse, the order of the Collector or other Officer as aforesaid. If the Board or other Authority as aforesaid confirm the order of the Collector or other Officer as aforesaid, or modify such order in such manner as to leave any part of such order in force, adverse to the claimant or objector, the Collector or other Officer as aforesaid shall certify such order to the Court constituted as hereinafter provided ; and such Court shall forthwith give notice to the claimant or objector; and if such claimant or objector shall not, within thirty days from the delivery of such notice from the Court, institute a suit in such Court, to establish his claim or objection, the order of the Board or other Authority aforesaid shall be final.

Decision of Board.

VI. The Local Government may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other Officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

Local Government may, within twelve months, order suit to be brought to try claim admitted by Collector.

VII. For the investigation and trial of claims under this Act, the Local Government shall constitute, in every District in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of Government, a Court consisting of an uneven number of persons, not less than three; of whom the Judge of the District, or the Officer presiding in the principal Civil Court of original jurisdiction in the District by whatever name his office may be designated, shall be one. Any one or more of the Members of which such Court shall consist, shall have power to make all such orders in the case, as may be necessary prior to the hearing of the suit. Provided that, whenever the Collector, or other Officer, by whom the original enquiry was held, is the Officer presiding in the principal Civil Court of original Jurisdiction in the District, such Officer shall not be a member of such Court.

Special Court for trying claims.

VIII. Whenever

VIII. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the several Collectors and Magistrates, of the District: and from the date of the issue of such proclamation, no other Court shall be competent to entertain any claim or objection, belonging to the class of claims or objections for the trial and determination of which such Court is constituted

Notice of constitution of Special Courts. Claims not cognizable in other Courts.

IX. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

Special Courts where to be held.

X. In every suit instituted under Section V of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff; and the Collector or other Officer aforesaid shall appear as defendant on the part of Government. Either party may appear by pleader or by agent. Provided that, if such other Officer as aforesaid be the presiding Officer of the principal Civil Court of original jurisdiction in the District, the local Government shall appoint some other Officer to appear as defendant in the case on its behalf. In any suit ordered to be instituted by the Local Government under Section VI of this Act, the Government, by any officer to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant.

Plaintiff and defendant in suits under Section V.

Proviso.

Plaintiff and defendant in suits under Section VI.

XI. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

Proceedings regulated by Civil Procedure Code.

XII. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective state

Procedure before hearing of suit.

ments.

ments. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time, before the day fixed for the hearing of the suit; and the Court shall issue a Subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

Procedure on hearing.

XIII. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties; and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

No appeal or revision.

XIV. No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

Reference of question of law, &c., to High Court, &c.

XV. If, on the trial of any suit under this Act, any question of law, or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts; the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of appeal and revision in the territory in which the land is situate. Provided that it shall be the duty of every Court held under this Act, to make such reference to such High Court, or Court of appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

Such reference obligatory in certain cases.

Court may proceed notwithstanding reference.

XVI. The Court may proceed in the case notwithstanding a reference to the High Court, or other highest Civil Court of appeal as aforesaid; and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred; but

but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of appeal.

Record of cases where to be deposited.

XVII. The record of cases disposed of by Courts constituted under this Act, shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the District in which the property in dispute is situate.

Limitation as to claims to land sold or dealt with

XVIII. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of Government as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise dealt with.

Provision for such claims if preferred within time.

If within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the District in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other Officer as aforesaid, within the period limited under Section I of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the District or other Officer as aforesaid (with the like provision as aforesaid if such other Officer be the presiding Officer of the principal Civil Court of original jurisdiction in the District), the defendant in the suit; and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit. The report of the Officer employed to give delivery, or to take possession, on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

If claim established, possession not to be given, but compensation.

XIX. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from the Government

Government Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

When land has not been absolutely sold, or has been otherwise dealt with.

XX. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is etablished; the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of Act VI of 1857 *(for the acquisition of lands for public purposes)*; and thereupon the local Government shall proceed under the said Act, to obtain an award of the value of such interest.

Award under the two last Sections to be in full satisfaction.

XXI. An award under any of the provisions of the two last preceding Sections, shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit, resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

Government not barred from awarding compensation for land absolutely sold, though claim be not preferred in time.

XXII. Nothing in this Act shall be held to prevent the local Government from awarding, to any claimant of waste land sold on account of Government, on proof to the satisfaction of the local Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other Officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount of compensation for the said land, within the limit as to amount mentioned in Section XIX of this Act, if the land have been sold not subject to any condition or reservation, as to such local Government may seem proper.

Compensation for land sold subject to condition, if claim proved, though not preferred in time.

XXIII. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the local Government, although not preferred to the Collector or other

other Officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the local Government may award to such claimant or objector, such amount as to such local Government may appear to be the value of the interest of such claimant or objector in such land.

Interpretation.

Number.

Gender.

XXIV. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Bengal Printing Company Limited.

ACT No. XXIV of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 16th May 1863.)

An Act to amend Act I of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory).

Preamble

WHEREAS it is expedient to amend Act I of 1863 *(to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory)*; It is enacted as follows:—

Governor-General may invest certain Courts in British Burmah with power to try suits, &c., now cognizable by Courts of lower grade

I. It shall be lawful for the Governor-General of India in Council to invest any Court in British Burmah of the second, third, and fourth grades of Courts mentioned in Section II of the said Act I of 1863, with power to receive suits, and to take cognizance of other matters, arising within the jurisdiction of the Court so invested, which from their amount as well as in other respects may be cognizable under the provisions of the said Act by a Court of a lower grade, and to try and determine the same subject to all the provisions of the said Act.

Provision for appeals from orders and decisions in suits, &c., dealt with under preceding Section

II. Appeals from orders and decisions passed by any Court invested as aforesaid, in suits or other matters of the nature described in the last preceding Section, shall lie to the Court to which appeals from orders and decisions passed by the said Court in the exercise of its ordinary jurisdiction lie under the said Act I of 1863, and shall be subject to all the rules contained in the said Act in relation to such appeals.

III. The

Jurisdiction of Deputy Judicial Commissioner at Rangoon, and his Court.

III. The Court of the Deputy Judicial Commissioner at Rangoon shall, for the purposes of Act I of 1863, be a Court of a Deputy Commissioner as constituted by the said Act; and the said Deputy Judicial Commissioner shall exercise the same jurisdiction in respect to receiving, trying, and determining suits and other matters arising within his jurisdiction as Deputy Judicial Commissioner, as a Deputy Commissioner is competent to exercise under the said Act.

Civil Code of Pegu repealed, and Act VIII of 1859 substituted during certain period.

IV. The Code called the "Civil Code of the Province of Pegu," with exception to Chapter III of the said Code as to the limitation of suits, and Chapter XXVII relating to Stamps, shall be held to have been repealed from the twentieth day of May 1862; and on and after the said date, until the first day of May 1863, Act VIII of 1859 *(for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter)*, as extended by the Chief Commissioner of British Burmah to the Province of Pegu, shall be held to have been in force in that Province.

Provision as to order or decision passed, or proceeding held, by Courts in Pegu on or after the 20th May 1862.

V. No order or decision passed, and no proceeding held by any Court in the Province of Pegu, or by any Appellate Court in relation to any such order or decision or proceeding, on or after the said twentieth day of May 1862, and before the said first day of May 1863, shall be held to be invalid merely by reason of such order or decision having been passed, or of such proceeding having been held under the said Act VIII of 1859, as extended to the said Province by the Chief Commissioner of British Burmah, instead of under the Code called the Civil Code of the Province of Pegu, or *vice versâ*.

Bengal Printing Company Limited

ACT No. XXV of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 16th May 1863.)

An Act to empower Judges of the High Court and other Authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction, or the Great Jail of Calcutta; and to authorize the transfer of prisoners, in certain cases, from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction.

Preamble.

WHEREAS great inconvenience is occasioned in the administration of Criminal Justice, by reason of the House of Correction in Calcutta not having sufficient accommodation to contain all the prisoners from time to time sentenced to be there confined for divers offences, and it is desirable that the Judges of Her Majesty's High Court of Judicature at Fort William in Bengal, and the Justices of the Peace and Magistrates of Police for the Town of Calcutta, should be empowered to send prisoners to the Great Jail of Calcutta, as well as to the House of Correction; and whereas also it is desirable that the Government of Bengal should have power, in cases of over-crowding, sickness, or the like, to order the transfer of prisoners from the Great Jail to the House of Correction, and *vice versâ*; It is enacted as follows :—

Certain Sections of Act XVIII of 1862 repealed in part.

I. Sections XLVII, XLVIII, XLIX, L, LI, and LII, of Act XVIII of 1862 *(to repeal Act XVI of* 1852 *in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature)*, are hereby repealed so far as they are applicable to, or have effect in, the Presidency of Fort William in Bengal, except as to any persons sentenced before the passing of this Act to rigorous imprisonment, or to imprisonment with hard labor, or to solitary confinement.

II. Whenever

II. Whenever any person shall be sentenced by Her Majesty's High Court of Judicature at Fort William in Bengal to rigorous imprisonment, or to imprisonment with hard labor, or to solitary confinement, it shall be lawful for the Judges or Judge of the said Court to direct such person to be imprisoned either in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Great Jail, as to them or him shall seem fit.

Persons sentenced by High Court to rigorous imprisonment, &c., may be imprisoned in the House of Correction, or Great Jail.

III. Whenever any person shall be sentenced by the said High Court to transportation, or penal servitude, such person may, at the discretion of the Judges or Judge of the said Court, be kept in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Great Jail, as the place of intermediate custody.

Persons sentenced by the said Court to transportation, &c., may be kept in House of Correction, or Great Jail.

IV. The Sheriff shall cause any person directed under either of the last two preceding Sections to be imprisoned or kept in the House of Correction, to be delivered to the Officer in whom the control of the House of Correction is vested, or to the Keeper of such House of Correction, together with a warrant to be signed by a Judge of the said High Court authorizing the detention of such person. Such Officer or Keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for the safe custody of such person.

Delivery into, and responsibility for, custody of person directed to be kept in House of Correction.

V. All Constables and Police Officers are hereby empowered to aid and assist the Sheriff in carrying to the House of Correction any person sentenced as aforesaid.

All constables, &c., empowered to assist.

VI. The Sheriff shall be absolved from all responsibility, in respect of the custody of any person sentenced as aforesaid to be imprisoned or kept in the House of Correction, from the time such person shall be delivered to the custody of the Officer in whom the control of the House of Correction is vested, or to the Keeper of such House of Correction.

Sheriff when absolved from responsibility.

VII. Whenever

VII. Whenever any person shall be sentenced by a Justice of the Peace or Magistrate of Police for the Town of Calcutta, to rigorous imprisonment, or imprisonment with hard labor, for any offence committed within the local limits of the ordinary original Civil jurisdiction of the said High Court, the person so sentenced may be committed by such Justice of the Peace or Police Magistrate either to the custody of the Officer in whom the control of the House of Correction is vested, or of the Keeper of the said House of Correction, whether such House of Correction be under the control of the Sheriff or not, or to the custody of the Sheriff, as to such Justice of the Peace or Police Magistrate shall seem fit. If the person so sentenced is committed to the custody of the Officer in whom the control of the House of Correction is vested, or the Keeper of the House of Correction, such Officer and Keeper shall be responsible for the safe custody of such person: if the person so sentenced is committed to the custody of the Sheriff, the Sheriff shall be responsible for his safe custody.

Persons sentenced by Justice of the Peace, or Police Magistrate, to rigorous imprisonment, &c., may be committed either to House of Correction, or Great Jail.

VIII. If it shall at any time appear to the Lieutenant-Governor of Bengal that, by reason of sickness, over-crowding, or any other cause, it is necessary or desirable that any prisoner under sentence of imprisonment in the House of Correction should be transferred to the Great Jail, or that any prisoner under sentence of imprisonment in the Great Jail should be transferred to the House of Correction, it shall be lawful for the said Lieutenant-Governor to order the transfer of such prisoner, and the prisoner shall thereupon be transferred in the manner hereinafter provided for carrying out the transfer. If the order be for the transfer of a prisoner from the Great Jail to the House of Correction, the Sheriff shall cause the prisoner to be delivered to the Officer in whom the control of the House of Correction is vested, or to the Keeper of the House of Correction, together with the original warrant authorizing the detention of such prisoner, and the order of the Lieutenant-Governor of Bengal signed by a Secretary to the Government of Bengal ordering his transfer. Such Officer or Keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for his safe custody. If the order be for the transfer of a prisoner from the House of Correction to the Great Jail, the Officer in whom the control of the House of Correction is vested,

Lieutenant-Governor of Bengal may order transfer of prisoners from House of Correction to Great Jail, and *vice versâ*.

Transfer how made.

vested, or the Keeper thereof, shall cause the prisoner to be delivered to the Sheriff, together with the original warrant authorizing the detention of such prisoner, and the order of the Lieutenant-Governor of Bengal signed by a Secretary to the Government of Bengal ordering his transfer. The Sheriff shall be bound to receive the person so delivered over to his custody, and shall be responsible for his safe custody.

Recent transfers of prisoners from House of Correction to Great Jail declared to be legal.

IX. And whereas certain persons under sentence of imprisonment in the House of Correction, have recently been on divers occasions transferred from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction : it is hereby declared, that such transfers respectively shall be held to be, and at all times to have been, legal in all respects ; and that the said persons now are, and always have been, and shall continue to be until the expiration of the period of their sentences respectively, in lawful custody, whether for the time being in the custody of the Sheriff in the Great Jail, or of the Keeper or Officer having the control of the House of Correction, in the House of Correction. Provided that nothing in this Section contained shall be held to render lawful the detention or custody of any prisoner whose detention or custody would have been unlawful irrespectively of such transfer.

Bengal Printing Company Limited.

ACT No. XXVI of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 16th May 1863.)

An Act to amend Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859, to alter the Duties of Customs on Goods imported or exported by Sea.)

Preamble.

WHEREAS it is expedient further to amend the law relating to Customs' Duties; It is enacted as follows:—

Duty to be charged on Iron, and on Wines, Beer, Porter, &c.

I. In lieu of the Customs Duties authorized in Act XI of 1862 *(to amend Act X of 1860, to amend Act VII of 1859, to alter the Duties of Customs on Goods imported or exported by Sea)*, to be charged on Iron, on Wines and Liqueurs, and on Porter, Ale, Beer, Cider, and other similar fermented Liquors when imported by Sea, there shall be levied and collected on the aforesaid articles, when imported by Sea, the following Duties of Customs: that is to say;—

On Iron (which shall not be taken to include ironmongery, cutlery, or hardware)..	One per cent. *ad valorem*:
On Wines and Liqueurs	One Rupee the Imperial gallon:
And on Porter, Ale, Beer, Cider and other similar fermented liquors	One Anna the Imperial gallon.

Act to have effect from 1st May 1863.

II. This Act shall be deemed to have had and to have effect as if it had actually passed and received the assent of the Governor-General on the first day of May 1863.

PRICE SIX PIES.

Bengal Printing Company Limited.

ACT No. XXVII OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 16th May 1863.)

An Act to further amend Act XXXII of 1860 *(for imposing Duties on profits arising from Property, Professions, Trades, and Offices), and to amend Act XXXIX of* 1860 *(to amend Act XXXII of* 1860*), and Act XVI of* 1862 *(to limit in certain cases the amount of assessment to the Duties chargeable after the thirty-first day of July* 1862, *under Act XXXII of* 1860, *and Act XXXIX of* 1860, *and otherwise to modify the said Acts).*

Preamble.

WHEREAS it is expedient to diminish the amount of Duties chargeable under Act XXXII of 1860 *(for imposing Duties on profits arising from Property, Professions, Trades, and Offices)*, and under Act XXXIX of 1860 *(to amend Act XXXII of* 1860*)*, and for that purpose to amend those Acts: and also to amend Act XVI of 1862 *(to limit in certain cases the amount of assessment to the Duties chargeable after the thirty-first day of July* 1862, *under Act XXXII of* 1860, *and Act XXXIX of* 1860, *and otherwise to modify the said Acts)*; It is enacted as follows:—

Acts XXXII of 1860, XXXIX of 1860, and XVI of 1862 to be read with this Section.

I. From and after the thirty-first day of July 1863, the said Act XXXII of 1860, and the said Act XXXIX of 1860, and the said Act XVI of 1862, shall be read and construed as if, in the first Section of the said Act XXXII of 1860, the words "the yearly Duty of two Rupees for every hundred Rupees of the annual value thereof" appeared instead of the words "the yearly Duty of three Rupees for every hundred Rupees of the annual value thereof," except as to any Duties which shall have become chargeable under the said Acts previously to the said thirty-first day of July 1863.

II. Section.

PRICE SIX PIES.

ACT No. XXVII of 1863.

II. Section XV of Act XVI of 1862, shall, from and after the said thirty-first day of July 1863, be read and construed as if the words "not less than twenty per cent. of the gross sum collected on account of the Duties of two and one per cent.," appeared therein in lieu of the words "not less than twenty per cent. of the gross sum collected on account of the Duties of three and one per cent."

Section XV of Act XVI of 1862 to be read with this Section.

Bengal Printing Company Limited.

ACT No. XXVIII of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 16th May 1863.)

An Act to remove doubts as to the operation of Act X of 1862 (to consolidate and amend the law relating to Stamp Duties) in the Settlement of Prince of Wales' Island, Singapore, and Malacca, between the first day of November 1862, and the first day of January 1863; and respecting the rate of exchange for payment of Stamp Duties, in the Currency of India, in the said Settlement.

Preamble.

WHEREAS by a Notification of the Governor-General of India in Council, dated the thirtieth day of May 1862, it was directed that all Deeds, Instruments, or Writings, executed in the Straits' Settlement, should be exempt from the Duties prescribed in Act X of 1862 *(to consolidate and amend the law relating to Stamp Duties)*; and whereas by another Notification of the Governor-General of India in Council, dated the first day of November 1862, it was ordered that the temporary suspension of the operation of the said Act X of 1862 in the Straits' Settlement, under the said Notification dated the thirtieth of May 1862, should cease and determine from the said first day of November 1862; and whereas by a further Notification of the Governor-General of India in Council, dated the sixth of November 1862, His Excellency in Council was pleased to exempt, until further orders, all Deeds, Instruments, and Writings, enumerated in Schedule B of the said Act X of 1862, from the Duties prescribed in that Schedule; and whereas, afterwards, the Governor of the Straits' Settlement suspended the operation of the said Act X of 1862 in the said Settlement, until the first day of January 1863; and whereas, in consequence of such suspension of the operation of the said Act, many

many penalties have been incurred and many Deeds, Instruments, and Writings, have been rendered invalid, or inadmissible in evidence, and it is expedient that such effects should be removed; and whereas it is also expedient to remove all doubt as to the rate of exchange for the payment of Stamp Duties, in the Currency of India, in the said Settlement; It is enacted as follows :—

Act X of 1862 not in operation in Straits' Settlement before 1st January 1863.

I. The said Act X of 1862 shall be held not to have come into operation in the said Settlement before the first day of January 1863.

Operation of Act, and of Schedule B of same, when to commence.

II. The said Act X of 1862, except Schedule B, shall be held to have come into operation in the said Settlement on the said first day of January 1863. The said Schedule B shall come into operation in the said Settlement from such time as the Governor-General of India in Council shall, under the authority vested in him by Section XXXIII of the said Act X of 1862, by an order to be published in the Calcutta Gazette, appoint.

Rate of exchange for payment of Stamp Duties, in Indian Currency, to be fixed by Governor.

III. For the purpose of fixing the rate at which Stamp Duties, payable in the Currency of India, under the said Act X of 1862, on Deeds, Instruments, and Writings, which are liable to Stamp Duty in the said Settlement, shall be calculated and paid, when the Deeds, Instruments, or Writings, in respect of which such Duties are payable, are Deeds, Instruments, or Writings, in which the amount or value on which the Stamp Duties is payable is not expressed or estimated in such Currency, it shall be lawful for the Governor of the said Settlement, from time to time, by a Notification to be published in the Official Gazette, to fix the rate at which Stamp Duties under the said Act X of 1862 will be taken by Government on such Deeds, Instruments, and Writings, as aforesaid; and every such Deed, Instrument, and Writing, which shall be stamped with the full and proper stamp or stamps required by the said Act X of 1862, calculated according to the rate of exchange which shall have been fixed by the said Governor, by a Notification as aforesaid (which Notification shall be in force, and not rescinded by any other such Notification as aforesaid, at the time when such Deed, Instrument, or Writing, became liable to Stamp Duty), shall be held to be duly stamped under the said Act X of 1862.

IV. Every

Provision as to Deeds, &c., stamped before the coming into operation of this and the last Section.

IV. Every Deed, Instrument, or Writing, liable to Stamp Duty in the said Settlement, which, before the time when the last preceding Section and this Section of this Act shall come into operation, shall have been stamped with the full and proper stamp or stamps required by the said Act X of 1862, calculated according to the rate fixed by a Notification of the said Governor before the time when the said Sections shall come into operation, (which Notification shall be in force, and shall not have been rescinded by any other such Notification, at the time when such Deed, Instrument, or Writing, became liable to Stamp Duty), shall be held to have been duly stamped under the said Act X of 1862.

Commencement of Sections III & IV.

V. Section III and Section IV of this Act shall be read and taken as part of the said Act X of 1862, and shall come into operation on the first day of June 1863.

Bengal Printing Company Limited.

ACT No. XXIX of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 7th December 1863.*)*

An Act to declare the receipts of the Banks of Bengal, Madras and Bombay to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George and Bombay respectively.

Preamble.

WHEREAS under the provisions of Act XXIV of 1861 *(to enable the Banks of Bengal, Madras and Bombay to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries)*, the Bank of Bengal has, through the Governor-General of India in Council, entered into an agreement with the Secretary of State for India in Council that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort William as consists of receiving and paying money on behalf of the Supreme Government and the Government of Bengal shall be carried on and transacted by the said Bank : and whereas the Bank of Madras and the Bank of Bombay have entered into similar agreements through the Governor in Council of Madras and the Governor in Council of Bombay with relation to the business hitherto generally transacted at the Treasuries at Madras and Bombay respectively : and whereas the office of Sub-Treasurer at Fort William and the office of Sub-Treasurer at Fort St. George and the office of Sub-Treasurer at Bombay have been abolished, and the business generally transacted at these offices has for some time past been and is now under the said agreements carried on and transacted by the said Bank of Bengal, Bank of Madras and Bank of Bombay respectively : and whereas doubts have been entertained whether in certain cases, in which during the existence of the office of Sub-Treasurer the receipt of the Sub-Treasurer was required, the receipt of the Secretary

PRICE SIX PIES.

Secretary of the Bank of Bengal or of the Secretary of the Bank of Madras or of the Secretary of the Bank of Bombay, as the case may be, is a good and sufficient receipt and discharge to the person to whom the same is given: and whereas it is desirable that these doubts should be removed; It is enacted as follows:—

Receipts of Secretaries of the Banks to be good in lieu of those of the Sub-Treasurers at the Presidencies.

I. The receipt of the Secretary of the Bank of Bengal, of the Secretary of the Bank of Madras, and of the Secretary of the Bank of Bombay (as the case may be), granted under the circumstances aforesaid, shall be deemed to be, and always to have been, as good and sufficient a receipt and discharge to the person to whom the same is granted, as the receipt of the Sub-Treasurer of Fort William, or of the Sub-Treasurer of Fort St. George, or of the Sub-Treasurer of Bombay would have been if the office of the said Sub-Treasurer had not been abolished.

All Acts in which the Sub-Treasurers at the Presidencies are named to be read as if the Banks' Secretaries were named instead.

II. In every Act and Regulation in which the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, or Sub-Treasurer of Bombay occur in connection with the payment of money required to be paid to, or of any act required to be performed by, any one of the said Sub-Treasurers, such Act or Regulation shall hereafter be read as if the words Secretary of the Bank of Bengal, Secretary of the Bank of Madras, and Secretary of the Bank of Bombay occurred therein, instead of the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, and Sub-Treasurer of Bombay respectively.

Bengal Printing Company Limited.

ACT No. XXX of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 16th December 1863.)

An Act to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh.

Preamble.

WHEREAS certain persons have made demands against the Government of India in respect of claims preferred by them, either in their own right or as the representatives of persons now deceased, against the late Native Government of Oudh: and whereas it is desirable that Commissioners should be appointed for the purpose of investigating the said claims; It is enacted as follows:—

Appointment of Commission of Enquiry.

I. It shall be lawful for the Governor-General of India in Council to issue a Commission to such persons as he shall think fit, for the purpose of enquiring into and reporting on such claims preferred against the late Native Government of Oudh, as shall be in the said Commission named and described. The said Commissioners shall fully enquire into the said claims respectively, and shall as soon as they conveniently can report to the Governor-General of India in Council the result of their enquiries, and shall in their report or reports make such suggestions, if any, as shall to them seem fit.

Governor-General in Council may appoint a sole Commissioner.

II. It shall be lawful for the Governor-General of India in Council to issue such Commission to one person only, if he shall so think proper: and if a Commission is issued to one person only, all the powers by this Act given to Commissioners shall and may be exercised by the sole Commissioner so appointed; and all the provisions of this Act as to appointing new Commissioners in the room of any of the Commissioners dying or resigning, or becoming unable or refusing to act, and as

PRICE 9 PIES.

as to the powers to be exercised by the new Commissioners so appointed, shall apply equally (so far as the same may be applicable) to the case of a sole Commissioner dying or resigning, or becoming unable or refusing to act, and of any new Commissioner appointed in his room.

Death or resignation of any of the Commissioners.

III. In case of the death or resignation of any of the said Commissioners, or of any of them becoming unable or refusing to act, it shall be lawful for the other Commissioners or Commissioner to act alone, and all the powers by this Act given to Commissioners shall and may be exercised by the continuing Commissioners or Commissioner alone. It shall be lawful for the Governor-General of India in Council, from time to time, without issuing a new Commission, to appoint some other person or persons to act as a Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner, and in such case all the powers conferred by this Act shall and may be exercised by the said newly-appointed Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner.

Claimants may appear to support their claims at time and place fixed by Governor-General.

IV. The said Commissioners shall enter in public upon the enquiry into the said claims respectively, at such time and place as shall have been fixed by the Governor-General of India in Council, by notification published in the Calcutta Gazette at any time whether before or after the passing of this Act. It shall be lawful for any of the claimants preferring the claims in the said Commission mentioned, to appear at the time and place so appointed in support of their claims respectively, either in person or by Agent duly constituted. The Secretary of State for India in Council may also in like manner appear at such time and place in opposition to the said claims. No claimant who shall not appear at the time and place appointed shall be entitled to appear subsequently or to take any part in the proceedings unless the Commissioners shall in their discretion specially permit him so to do. It shall be lawful for the Governor-General of India in Council, by notification in the Calcutta Gazette, to vary or cancel any notification previously given as aforesaid.

Mode in which public enquiry is to be conducted.

V. The public enquiry into the several claims aforesaid shall be conducted by the said Commissioners so far as regards adjournments, the examination of claimants and witnesses, the reception of documents and the rules of evidence, in like manner (so far

far as the same may in the opinion of the Commissioners be possible) as an ordinary Civil suit under the Code of Civil Procedure. The persons appearing in support of any claim shall be deemed for the purpose of the enquiry to be the plaintiffs in the cause, and the Secretary of State for India in Council shall be deemed to be the defendant, and may oppose the claimants in like manner as a defendant in a Civil suit may ordinarily oppose the plaintiff therein.

Attendance of witnesses.

VI. It shall be lawful for the Commissioners aforesaid, by a summons under the hand of any one of them, to require the attendance before them at a time and place to be mentioned in such summons, of any person or persons whomsoever, residing or being within British India, whose evidence shall in the judgment of the Commissioners aforesaid be material to any of the matters of the enquiry aforesaid; and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds, and writings as to them the said Commissioners shall appear necessary for arriving at the truth of the matters directed to be enquired into by the said Commissioners; all which persons shall accordingly attend before the said Commissioners, and shall produce such books, papers, deeds, and writings as shall be required of them and shall be in their custody and control or in the custody and control of any one of them, according to the tenor of the summons.

Examination of witnesses on oath or affirmation.

VII. It shall be lawful for the Commissioners aforesaid, or one of them, to administer an oath or an affirmation in such form as to the said Commissioners shall seem fit, to all persons who shall be examined before them touching the matters to be enquired into: Provided that nothing herein contained shall render it necessary for the said Commissioners to take evidence upon oath or affirmation unless they shall think it fit or expedient so to do.

Proviso.

Witnesses neglecting to attend, &c.

VIII. If any person upon whom any such summons shall be served, by the delivery thereof to him or by the leaving thereof at his usual place of abode, shall without reasonable cause (to be allowed by the Commissioners aforesaid) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be), or shall not make answer to such questions

questions as shall be put to him touching the matters directed, or which may hereafter be directed to be enquired into by the Commissioners aforesaid, or shall refuse or fail without reasonable cause (to be allowed by the Commissioners aforesaid) to produce and show to the said Commissioners any such paper, book, deed, or writing being in his possession or under his control as to the Commissioners aforesaid shall appear necessary for arriving at the truth of the matters to be enquired into by them, the Commissioners aforesaid shall have the same powers in all respects touching any such person so failing to appear, or refusing to be sworn or to make affirmation, or not answering such questions as shall be put to him, or refusing to produce and show any such book, paper, deed, or writing as aforesaid, as the Principal Court of Original Civil Jurisdiction within the limits of which the said person shall be residing may by law exercise against any person for making default of appearance, or for refusing to be sworn or to give evidence on any issue joined in any action depending in such Court.

Expenses of witnesses.

IX. Whenever a summons is issued for the attendance of a witness under this Act, the Commissioners may if they think fit order such witness to receive from the Collector or Commissioner of the District or Division, such travelling and other expenses as he would have been entitled to receive had he been summoned to appear and give evidence in the Principal Court of Original Civil Jurisdiction in the District or Division.

Punishment for false evidence.

X. Every person who, upon examination upon oath or affirmation before the Commissioners aforesaid or any of them, shall wilfully give false evidence, shall be liable to the punishment provided in Section 193 of the Indian Penal Code for the offence of giving false evidence.

Bengal Printing Company Limited.

ACT No. XXXI of 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 16*th December* 1863.)

An Act to give effect to the publication of certain orders and other matters in the Gazette of India.

Preamble.

WHEREAS the Governor-General of India in Council has resolved to publish an Official Gazette to be called the Gazette of India containing such orders, notifications, and other matters as the Governor-General of India in Council shall direct to be inserted therein; It is enacted as follows :-

Publication in the Gazette of India to have the effect of publication in any other Gazette in which publication is prescribed by any law now in force.

I. When in any Regulation or Act now in operation, or in any Rule having the force of law, it is directed that any order, notification or other matter shall be published in the Official Gazette of any Presidency or place, such order, notification or other matter shall be deemed to be duly published in accordance with the requirements of the law, if it be published either in the Gazette in which it would have appeared but for the passing of this Act, or in the Gazette of India under the directions of the Governor-General of India in Council.

PRICE 3 PIES.

Bengal Printing Company Limited.

ACT No. XXXII OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 16*th December* 1863.)

An Act to continue in force Act XX of 1862 *(to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of* 1859 *in the said High Court).*

Preamble.

WHEREAS it is expedient that Act XX of 1862 *(to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of* 1859 *in the said High Court),* should continue in force for a further period from the first day of January 1864 ; It is enacted as follows :—

Act XX of 1862 continued till such date as the Governor-General in Council shall appoint.

I. Act XX of 1862 shall continue in force until such time as the Governor-General of India in Council shall by notification published in the Gazette of India appoint for its expiry.

PRICE 3 PIES.

Bengal Printing Company Limited.

INDEX

TO THE

ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1864.

No. of Act.

A.

ABKAREE REVENUE. Extension to certain Provinces of Act XXI of 1856 relating to ——. ... ... X.

—— —————— Extension to Punjab of Act XXI of 1856 relating to ——. ... ... XXVIII.

ABOLITION OF OFFICES of Hindú and Muhammadan Law Officers ... XI.

ACT XXVII OF 1836. Repeal of ——. ... ... XI.

—— XXX OF 1838. „ „ ... ... XVI.

—— XIV OF 1839. „ „ ... ... XIII.

—— XVI OF 1841. „ „ Section I of—— ... ... XXVII.

—— XV OF 1842. „ „ the whole of—— ... ... XIII.

—— I OF 1843. „ „ „ „ „ ... ... XVI.

—— VII OF 1843. „ „ Section 51 of—— ... ... XI.

—— XIV OF 1843. „ „ so much of Section 14 of——as declares that the Act does not apply to Saugor and Nerbudda. ... VII.

—— ——————. So much of Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of——as relates to the manufacture and importation of salt, extended to the Central Provinces. .. ... *ib.*

—— XVII OF 1843. Repeal of——except in so far as it is applicable to Prince of Wales' Island, Singapore and Malacca ... XVII.

—— XIX OF 1843. Repeal of the whole of—— ... ... XVI.

	No. of Act.
ACT XXI OF 1843. Repeal of the whole of——	XIII.
—— XXI OF 1844. „ „ „ „ „	*ib.*
—— IV OF 1845. „ „ „ „ „	XVI.
—— V OF 1845. „ „ „ „ „	XI.
—— XXV OF 1845. „ „ „ „ „	XIII.
—— VII OF 1847. Extension of powers and provisions of——. ...	XXVI.
—— VIII OF 1847. Repeal of the whole of——	XIII.
—— XIII OF 1847 „ „ „ „ „	*ib.*
—— XVIII OF 1847. „ „ „ „ „	XVI.
—— IX OF 1850. Increase of limit of jurisdiction of Courts of Small Causes held under——.	XXVI.
—— VIII OF 1851. Amendment of——.	XV.
—— ———— Schedule of——to have no effect in places to which Act XV of 1864 is extended.	XV.
—— XI OF 1851. Repeal of the whole of——	XVI.
—— IV OF 1852. „ „ „ „ „	XIII.
—— XXIV OF 1852. „ „ „ „ „	*ib.*
—— XVIII OF 1853. „ „ —— so far as it relates to the Bengal Presidency.	XXII.
—— XXXI OF 1855. „ „ the whole of——	XIII.
—— XXXVI OF 1855. Sections 1, 2, 3, 5, 6, 7 8 and 9 of—— extended to the Central Provinces	VII.
—— XIII OF 1856 Procedure of——applicable to cases under Act XXI of 1864.	XXI.
—— XIX OF 1856. Partial repeal of——	XIII.
—— XXI OF 1856. Extension of——to the Punjab	XXVIII.
—— ————. Provision for extension of——to certain Provinces. ...	X.
—— XXIX OF 1856. Repeal of the whole of——	XVI.
—— XXXV OF 1858. Provisions of——not interfered with by Act XX of 1864.	XX.

	No. of Act
ACT III OF 1859. Repeal of Sections 9 and 10 of——	XVI.
—— ————. Jurisdiction exercised by any officer under——to cease in any cantonment in which a Small Cause Court is established.	XXII.
—— VIII OF 1859. Validity given to extension of—— to Scinde. ...	V.
—— XIV OF 1859. Extension of——to Jhansi, Jaloun and Lullutpore, and to Kumaon and Gurhwal.	XXIV.
—— XII OF 1860. Repeal of the whole of——	XIII.
—— XXIII OF 1860. Extension of——. to Punjab	XXVIII.
—— XXIV OF 1860. Declaration and certificate required by——no longer required.	XXV.
—— XXXIII OF 1860. Repeal of the whole of——	XIII.
—— XLI OF 1860. „ „ „ „ „	*ib.*
—— XLVI OF 1860. „ „ part of Section 8 of——	*ib.*
—— ————. Certain Sections of Act XIII of 1864 to apply to emigration under——.	*ib.*
—— XLVIII OF 1860. Procedure of——applicable to cases under Act XXI of 1864.	XXI.
—— XLIX OF 1860. Repeal of the whole of——	XIII.
—— VIII OF 1861. „ „ „ „ „	IX.
—— VII of 1862. Certain Sections of Act XIII of 1864 to apply to emigration under——.	XIII.
—— XI OF 1862. Alteration of Customs Duties chargeable under——on certain goods	XXIII.
—— XIX OF 1862. Section 2 of——extended to Central Provinces. ...	VII.
—— XXII OF 1862. Repeal of the whole of——	XIII.
—— IV OF 1863 (to give effect to certain provisions of a Treaty with the King of Burmah). Further effect given to—— ...	XII.
—— VII OF 1863. Repeal of the whole of——	XIII.
—— XXVI OF 1863. „ „ „ „ „	XXIII.
ADEN. Administration of Civil and Criminal Justice at ——. ...	II.

No. of Act.

ADMINISTRATION of Military Cantonments ... ... XXII.

——— of certain Districts under the Government of the North Western Provinces ... ... XXIV.

AMHERST. Repeal of Act VIII of 1861 for the levy of Port-dues in the Port of ——. ... ... IX.

ASSURANCES. Registration of ——. ... ... XVI.

B.

BANDA. Jagheers of Poorwah and Khuddee in the district of——brought under the operation of the General Regulations. ... I.

BOMBAY. Provision for care of persons and property of Minors in the Presidency of ——. ... ... XX.

BRITISH INDIA. Government invested with certain powers with respect to foreigners in——. ... ... III.

BURMAH. Further effect given to provisions of Act IV of 1863 concerning treaty with King of——. ... ... XII.

C.

CALCUTTA. Extension of the jurisdiction of the Magistrates of Police in——. XXI.

CANTONMENTS, Military. Administration of——. ... ... XXII.

CAZEE AND
CAZEE-OOL-COZAAT. Repeal of laws relating to Offices of ——. ... XI.

CENTRAL PROVINCES. Importation and manufacture of Salt in——. ... VII.

CHRISTIANS. Solemnization of Marriages in India of——. ... ... XXV.

CODE OF CIVIL PROCEDURE. Validity given to the extension of——to the Province of Scinde. ... ... V.

CODE OF CRIMINAL PROCEDURE. Sections 62, 63, 308, 309, 311, 312, 313 and 314 of——extended to the Town of Calcutta. ... XXI.

COMPTOIR D'ESCOMPTE OF PARIS. To enable the——to sue and be sued in the name of the Chief Manager of its Indian Agencies. ... VIII.

COURT OF SMALL CAUSES, KURRACHEE. Validity given to proceedings of ——. ... ... IV.

No. of Act.

COURTS OF SMALL CAUSES, CALCUTTA, MADRAS, AND BOMBAY. Extension of jurisdiction of ——. ... ... XXVI.

CUSTOMS DUTIES ON GOODS IMPORTED BY SEA. Amendment of law relating to ——. ... ... XXIII.

D.

DECLARATIONS. Substitution of——for oaths of qualification taken by Justices of the Peace. ... . XXVII.

DISTRICTS under N. W. P. Government. Administration of——. ... XXIV.

DUTIES, CUSTOMS, ON GOODS IMPORTED BY SEA. Amendment of law relating to ——. ... ... XXIII.

E.

EMIGRATION OF NATIVE LABOURERS. Consolidation and amendment of laws relating to ——.... ... ... XIII.

EXTENSION OF CODE OF CIVIL PROCEDURE TO SCINDE. Validity given to ——. ... ... V.

——— —— of certain Sections of Acts XIV of 1843, XXVI of 1855 and XIX of 1862, to Central Provinces. ... ... VII.

——— of Act XXI of 1856 (Abkaree Revenue) to Non-Regulation Provinces. ... ... X.

——— ——— to Punjab. ... ... XXVIII.

F.

FOREIGNERS. Government invested with certain powers with respect to ——. III.

G.

GENERAL REGULATIONS. (*See Regulations.*) ... ...

GOVERNMENT. Certain powers given to —— with respect to foreigners. ... III.

GURHWAL AND KUMAON. Administration of ——. ... ... XXIV.

H.

HINDÚ AND MUHAMMADAN LAW OFFICERS. Repeal of laws relating to—— and abolition of Offices of ——. ... ... XI.

No. of Act.

J.

JALOUN. JHANSI. } Administration of —— ... ... XXIV.

JOINT JUDGE OF THE KONKAN. Validity given to the proceedings of ——. XIV.

JOUNSAR BAWUR. Administration of—— ... ... XXIV.

JURISDICTION OF MAGISTRATES OF POLICE CALCUTTA. Extension of —— XXI.

—————— of Small Cause Courts in Calcutta, Madras, and Bombay. Extension of—— ... ... XXVI.

JUSTICES OF THE PEACE. Declarations substituted for the oaths of qualification of —— ... ... XXVII.

K.

KHUDDEE AND POORWAH. (*See Banda.*)

KONKAN. Validity given to proceedings of the Joint Judge of the—— ... XIV.

KUMAON AND GURHWAL. Administration of —— ... ... XXIV.

KURRACHEE. Validity given to proceedings of Court of Small Causes of——. IV.

L.

LAW OFFICERS, HINDU AND MUHAMMADAN. Abolition of Offices of——. XI.

LUCKNOW. Municipal Committee for the City of —— ... ... XVIII.

LULLUTPORE. Administration of —— ... ... XXIV.

M.

MAGISTRATES OF POLICE AT CALCUTTA. Extension of jurisdiction of ——. XXI.

MUHAMMADAN AND HINDU LAW OFFICERS. Repeal of laws relating to—— and abolition of Offices of —— ... ... XI.

MARRIAGES in India of persons professing the Christian Religion. Provision for solemnization of —— ... ... XXV.

MILITARY CANTONMENTS. Administration of —— ... ... XXII.

MINORS IN THE PRESIDENCY OF BOMBAY. Provision for care of persons and property of —— ... ... XX.

No. of Act.

MIRZAPORE. Certain tracts of country in the District of——removed from the jurisdiction of the local Courts. ... ... XIX.

MUNICIPAL COMMITTEE. *See Lucknow.* ... ...

N.

NORTH-WESTERN PROVINCES. Administration of certain Districts under the Government of the—— ... ... XXIV.

O.

OATHS of qualification taken by Justices of the Peace. Declarations substituted for—— ... ... XXVII.

OFFICIAL TRUSTEE. Office of —— constituted. .... XVII.

P.

POLICE MAGISTRATES IN CALCUTTA. Extension of jurisdiction of—— ... XXI.

POORWAH AND KHUDDEE. *See Banda.*

PORT-DUES IN THE PORT OF AMHERST. Repeal of Act for the levy of—— ... IX.

PROVINCES under immediate administration of Government of India. Extension to——of Act XXI of 1856 ... ... X.

PUNJAB. Extension to—— of Act XXI of 1856 ... ... XXVIII.

R.

REGISTRATION of Assurances. ... ... XVI.

REGULATION IV, 1793 (Bengal Code). Repeal of part of Section 15 of—— XI.

——— XII, 1793. „ „ „ the whole of—— ... *ib.*

——— XXXVI, 1793. „ „ „ „ „ ... ... XVI.

——— XXXIX, 1793. „ „ „ „ „ ... ... XI.

——— VIII, 1795. „ „ „ part of Section 3 of—— *ib.*

——— XI, 1795. „ „ „ the whole of—— ... *ib.*

——— XXVIII, 1795. „ „ „ „ „ ... ... XVI.

——— XLIX, 1795. „ „ „ „ „ ... ... XI.

——— II, 1879. „ „ „ Section 4 of—— ... *ib.*

——— III, 1803. „ „ „ part of Section 16 of—— *ib.*

								No. of Act
REGULATION XI, 1803 (Bengal Code).	Repeal	of the	whole	of——				XI.
——— XVII, 1803.	„	„	„	„	„	„		XVI.
——— XLVI, 1803.	„	„	„	„	„	„	...	XL.
——— VIII, 1805	„	„	„	part of Section 17 of——				XVI.
——— XII, 1805.	„	„	„	Section 32 of——			...	*ib.*
——— X, 1806.	„	„	„	part of Section 10 of——				XI.
——— III, 1809.	„	„	„	Sections 2 & 3 of——			...	XXII.
——— VIII, 1809.	„	„	„	Sections 3 & 4 of——			...	XI.
——— XX, 1810.	„	„	„	part of Section 12, also Sections 13, 14, 15, 16, 17, 18 and 21 of——			...	XXII.
——— XX, 1812.	„	„	„	the whole of——			...	XVI.
——— XVIII, 1817.	„	„	„	part of Sections 1, 2, 4 and 6 of——			...	XI.
——— IV, 1824.	„	„	„	the whole of——			...	XVI.
——— XI, 1826.	„	„	„	Sections 1, 2, 3 and 4 of—— ...			...	XI.
——— III, 1827.	„	„	„	part of Sections 1, 2, 3 and 4 of——			...	*ib.*
——— III, 1829.	„	„	„	Section 7 of——			...	*ib.*
——— VII, 1832.	„	„	„	Section 4 of——			...	XVI.
REGULATION II, 1827 (Bombay Code).	„	„	„	Clauses 2 and 3 of Section 34, and whole of Section 35 of—— ...			...	XI.
——— IX, 1827.	„	„	„	the whole of——			...	XVI.
——— XXVI, 1827.	„	„	„	„	„	„	...	XI.
——— XIII, 1828.	„	„	„	„	„	„	...	XVI.
REGULATION XI, 1802. (Madras Code).	„	„	„	„	„	„	...	XI.
——— XVII, 1802.	„	„	„	„	„	„	...	XVI.
——— III, 1808.	„	„	„	„	„	„	...	XI.

No of Act.

REGULATION, VII, 1822 (Madras Code) Repeal of Section 3, Clause 2 of—— . XI.
———— III, 1828. „ „ „ the whole of—— ... *ib.*
———— XI, 1831. „ „ „ „ „ „ ... XVI.
REGULATIONS, GENERAL. Jagheers of Poorwah and Khuddee in the District of Banda brought under the operation of——. ... I.
REPEAL. *See Acts.*
——— *See Regulations.*
——— of Laws relating to Offices of Hindu and Muhammadan Law Officers and of Cazee and Cazee-ool-Coozaat. ... XI.

S.

SALT. Importation and manufacture of ——in the Central Provinces ... VII.
SCINDE. Validity given to the extension of the Code of Civil Procedure to the Province of ——. ... ... V.
SMALL CAUSE COURTS. *See Courts of Small Causes.*

T.

TOLLS ON PUBLIC ROADS AND BRIDGES. Amendment of Act VIII of 1851, relating to ——. ... ... XV.
TRACTS OF COUNTRY in Mirzapore removed from jurisdiction of local Courts XIX.
TREATY WITH THE KING OF BURMAH. Further effect given to provisions of Act IV of 1863 concerning ——. ... ... XII.
TRUSTEE, OFFICIAL. Office of —— constituted ... ... XVII.

W.

WHIPPING Punishment of —— authorized. ... ... VI.

BENGAL SECRETARIAT LIBRARY

TITLES

OF

ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL,

IN THE YEAR 1864.

ACT No.	I.	An Act to bring the Jagheers of Poorwah and Khuddee, in the District of Banda, under the operation of the General Regulations.
—	II.	to provide for the administration of Civil and Criminal Justice at Aden.
—	III.	to give the Government certain powers with respect to Foreigners.
—	IV.	to give validity to certain proceedings of the Court of Small Causes of Kurrachee.
—	V.	to give validity to the extension of the Code of Civil Procedure to the Province of Scinde from the first day of January 1862.
—	VI.	to authorize the punishment of whipping in certain cases.
—	VII.	for regulating the importation and manufacture of alimentary Salt in the Territories administered by the Chief Commissioner of the Central Provinces.
—	VIII.	to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company.
—	IX.	to repeal Act VIII of 1861 (for the levy of Port-dues in the Port of Amherst).
—	X.	to extend Act XXI of 1856 (to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).
—	XI.	to repeal the Laws relating to the Offices of Hindoo and Mahomedan Law Officers, and to the Offices of Cazee-ool-Cozaat and of Cazee; and to abolish the former Offices.
—	XII.	to give further effect to the provisions of Act IV of 1863 (to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah).
—	XIII.	to consolidate and amend the Laws relating to the Emigration of Native Laborers.

Act No.	XIV.	to give validity to certain acts and proceedings of the Joint Judge of the Konkan.
—	XV.	to amend Act VIII of 1851 (for enabling Government to levy Tolls on Public Roads and Bridges).
—	XVI.	to provide for the Registration of Assurances.
—	XVII.	to constitute an Office of Official Trustee.
—	XVIII.	to provide for the appointment of a Municipal Committee for the City of Lucknow.
—	XIX.	to remove certain tracts of Country in the District of Mirzapore from the jurisdiction of the local Courts.
—	XX.	for making better provision for the care of the persons and property of Minors in the Presidency of Bombay.
—	XXI.	for the extension of the jurisdiction of the Magistrates of Police in Calcutta.
—	XXII.	to make provision for the administration of Military Cantonments.
—	XXIII.	to amend the law relating to the Customs Duties on goods imported by Sea.
—	XXIV.	relating to the administration of certain Districts under the Government of the Lieutenant-Governor of the North-Western Provinces.
—	XXV.	to provide further for the solemnization of Marriages in India of persons professing the Christian Religion.
—	XXVI.	to extend the jurisdiction of the Courts of Small Causes at Calcutta Madras, and Bombay, and to provide for the appointment of an increased number of Judges of those Courts.
—	XXVII.	to substitute certain declarations for the oaths of qualification taken by Justices of the Peace.
—	XXVIII.	to provide for the extension of Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal) to the provinces under the control of the Lieutenant-Governor of the Punjab.

ACT No. I of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th February 1864.)

An Act to bring the Jagheers of Poorwah and Khuddee, in the District of Banda, under the operation of the General Regulations.

Preamble.

WHEREAS the Jagheers of Poorwah and Khuddee in the District of Banda are not subject to the General Regulations and it is expedient that the said Jagheers should be administered on the same system as prevails in the rest of the District; It is enacted as follows:—

Laws and Regulations for internal administration of Banda to have full force in Poorwah and Khuddee

I. The Laws and Regulations established for the internal administration of the District of Banda shall have full force and effect in the Jagheers of Poorwah and Khuddee, and the administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the public revenue, and of all matters relating to rent in the said Jagheers, are hereby vested in the Officers who are or may hereafter be appointed by the Lieutenant-Governor of the North-Western Provinces for the said District of Banda.

Saving as to suits pending at the time of passing of this Act.

II. All suits and proceedings, whether in appeal or otherwise, arising in the said Jagheers, and which, at the time of this Act coming into operation shall be pending in any Court, or before any Officer, shall be heard and determined in the same manner as if this Act had not been passed.

Suits remanded by any Appellate Court.

III. Any suit which, before the coming into operation of this Act, shall have been determined and which shall have been or shall be remanded by any Appellate Court, shall be tried before the Court which for the time being would be competent to try such a suit if instituted after the passing of this Act.

IV. All

Execution of decrees.

IV. All applications for execution of decrees or orders, which but for the passing of this Act would have been made to any Court or Officer existing at the time of the passing of this Act, shall be made to the Court or Officer who would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the coming into operation of this Act.

Appeals from decrees or orders passed before passing of Act.

V. All appeals from decrees or orders passed before the coming into operation of this Act shall be received, heard, and determined by the Court or Officer who would have had jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the coming into operation of this Act.

Commencement of Act.

VI. This Act shall take effect from such date as the Lieutenant-Governor of the North-Western Provinces shall fix by an order to be published in the Official Gazette.

ACT No. II of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th February 1864.)

An Act to provide for the administration of Civil and Criminal Justice at Aden.

Preamble.

WHEREAS the administration of Civil and Criminal Justice at Aden is now entrusted to the Resident and in subordination to him to the Assistant Resident; and whereas Her Majesty has by Her Letters Patent, dated the twenty-second June 1860, appointed the Resident at Aden to be Judge of Her Majesty's Vice Admiralty Court at Aden for the purposes of and according to the provisions of the Statute 12 and 13 Vic, c. 84; and whereas the Criminal law to be administered at Aden is provided for by the Indian Penal Code, but the law to be administered at Aden in Civil matters and the precise nature of the Criminal and Civil jurisdiction of the Resident, and the proper course of procedure in his Court, have never been defined, and it is expedient that they should be provided for; and whereas at present judgments and proceedings of the Resident at Aden are not subject to the superintendence or revision of any Court of Justice, except so far as they are subject to appeal to Her Majesty in Council, and it is expedient to provide for the superintendence or revision of certain of such judgments and proceedings by the High Court at Bombay: It is enacted as follows:—

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant thereto, that is to say:—

"Resident."

The word "Resident" denotes the Chief Civil Officer at Aden appointed by the Government by whatever designation such Officer may be called, and includes any Acting Resident or Officer acting temporarily as such Chief Civil Officer.

The words

PRICE 1 ANNA AND 6 PIE.

The words "Assistant Resident" denote any Officer appointed by the Government to assist the Resident at Aden by what ever designation such Officer may be called, and includes an Acting Assistant.

"Assistant Resident."

The words "Court of the Resident" include the Court of any Assistant Resident.

"Court of the Resident."

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number.

Words importing the masculine gender include females.

Gender.

CIVIL JURISDICTION.

II. The administration of Civil Justice at Aden is hereby declared to be vested in the Court of the Resident.

Administration of Civil Justice vested in the Court of the Resident.

III. The Resident may hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute.

Resident may try, in the first instance, all cases instituted in the Court of the Resident.

IV. The Assistant Residents shall have power to hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute. The Resident may from time to time direct in what manner the cases instituted in his Court shall be distributed amongst the Assistant Residents.

Assistant Residents may try cases allotted to them.

V. When any suit which relates to immoveable property, or in which the claim, estimated according to any Law for the valuation of claims for the time being in force, shall exceed five hundred Rupees in value, is tried in the first instance by an Assistant Resident, an appeal shall lie from his decision to the Resident. An appeal shall also lie to the Resident from all orders passed by an Assistant Resident in the execution of a decree or other order from which, had the order been passed by a Court subordinate to the Court of a District Judge in the Presidency of Bombay, an appeal would have been allowed to the District Judge, as well as from all orders passed by an Assistant Resident in cases other than suits as defined in the Code of Civil Procedure.

Appeal in what cases to lie from Assistant Resident to Resident.

VI. For

VI. For the hearing and determination of appeals from decisions and orders under the last preceding Section, the Resident shall (save as herein is otherwise provided) possess and exercise the powers of a District Judge in the Bombay Presidency with reference to the Courts subordinate to him.

Powers of Resident in hearing appeals.

VII. No appeal shall lie from the decision of an Assistant Resident in any suit not relating to immoveable property in which the claim estimated as aforesaid shall not exceed five hundred Rupees in value; but the Resident may, within the period allowed for appeal in appealable cases, call for any proceedings of the Assistant Resident at any stage thereof, and may pass such orders thereon as he may think fit.

No appeal in other cases.

VIII. No appeal shall lie from any decision or order of the Resident given or made by him, whether in the exercise of his original jurisdiction, or in the exercise of his jurisdiction as a Court of Appeal or of Revision; but if in the trial of any suit in which the claim estimated as aforesaid shall not exceed one thousand Rupees in value, any question of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, on which the Resident shall entertain doubts, the Resident may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with his own opinion, for the decision of the High Court of Judicature at Bombay: and if in the trial of any suit or the hearing of an appeal in any suit in which the claim, estimated as aforesaid, shall exceed one thousand Rupees in value, any question of fact or of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, the Resident shall, on the application of any of the parties to the suit, or he may of his own motion, draw up a statement of the case and submit it with his own opinion for the decision of the said High Court.

No appeal from Resident.

But he may refer question of law, &c., to High Court.

IX. The Resident may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

Resident may pass decree contingent upon the opinion of the High Court, pending which execution not to issue.

X. Cases

Full bench of the High Court to decide cases referred under this Act.

X. Cases referred for the opinion of the High Court shall be heard by two or more Judges of that Court. Before giving judgment the High Court may call for and peruse the whole or any part of the proceedings of the Court of the Resident, but shall not be bound so to do.

Parties may appear and be heard in person or by pleader.

XI. The parties to the case may appear and be heard in the High Court in person or by a pleader.

Decision of High Court how to be transmitted.

XII. The High Court, when it has heard and considered the case, shall transmit to the Resident a copy of its judgment, under the seal of the Court and the signature of the Registrar; and the Resident shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

XIII. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Resident to have powers of a Small Cause Court.

XIV. When any suit tried in the first instance by the Resident is of such a nature as to be cognizable under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), the Resident shall, in such suit, have all the powers conferred on, and shall be guided by all the provisions applicable to, a Court of Small Causes constituted within the Presidency of Bombay under the said Act or any other Act for the time being in force not being an Act relating to Courts of Small Causes in the Presidency Towns: and every Assistant Resident who shall have been vested by the Governor of Bombay in Council with the powers of a Judge of a Court of Small Causes as defined in the said Act XLII of 1860 or any Act passed in supersession thereof, shall have the like powers and be guided by the like provisions in any suit tried by him in the first instance and of a nature cognizable under the said Act XLII of 1860, any thing in Section V of this Act contained to the contrary notwithstanding.

Administration of Civil Justice to be according to spirit and principles of the Bombay Laws and Regulations.

XV. In the administration of Civil Justice, the Court of the Resident shall be guided by the spirit and principles of the Laws and Regulations in force in the Presidency of Bombay, and administered in the Courts of that Presidency not established by Royal Charter, and in the High Court in the exercise of its jurisdiction as a Court of appeal from those Courts.

XVI. Except

CIVIL PROCEDURE.

Code of Civil Procedure applicable.

XVI. Except as otherwise provided in this Act, the proceedings in suits and cases of every description between party and party brought in the Court of the Resident shall be regulated by the Code of Civil Procedure, and by any other Act or Acts in relation to Civil Procedure in force for the time being.

CRIMINAL JURISDICTION.

Administration of Criminal Justice vested in Court of the Resident, subject to proviso.

XVII. The administration of Criminal Justice at Aden is hereby declared to be vested in the Court of the Resident, save as is herein otherwise provided.

Governor of Bombay may give Assistant Residents certain powers.

XVIII. The Governor of Bombay in Council may invest any Assistant Resident with the powers of a Magistrate, or of a subordinate Magistrate of the first or second class as described in the Code of Criminal Procedure, and such Assistant Resident shall exercise such powers under the said Code, but subject to the provisions of this Act.

Appeal from Assistant Resident to Resident, in what cases.

XIX. In every case tried by an Assistant Resident in which the punishment awarded shall be imprisonment for a period exceeding six months with or without fine, or shall be only a fine exceeding five hundred Rupees, an appeal shall lie from the sentence of the Assistant Resident to the Resident. No appeal shall lie from the sentence of an Assistant Resident in any case in which the punishment awarded shall be imprisonment for a period not exceeding six months with or without fine, or shall be only a fine not exceeding five hundred Rupees; but the Resident may in all cases, within the period allowed for appeal in appealable cases, call for any proceedings whatever of the Assistant Resident at any stage thereof, and may pass such order thereon as he may think fit.

Resident to exercise powers of Court of Session, and also of a Magistrate.

XX. The Resident shall except as in this Act is otherwise provided exercise all the powers of a Court of Session as defined in the Code of Criminal Procedure, and he may also, when it shall seem to him proper so to do, exercise the powers of a Magistrate as defined in the said Code, except in cases triable before himself as a Court of Session.

As a Court of Session, to hold gaol deliveries.

XXI. The Resident in the exercise of his powers as a Court of Session shall hold gaol deliveries at convenient periods, of which due notice shall be given, for the trial of all persons charged with offences punishable under the Indian Penal Code, or under any other law

other law in force for the time being, who may be committed to take their trial before him as a Court of Session. Provided that the Resident shall not have power to try any European British subject charged with an offence punishable with death under the said Code. The commitment of any European British subject charged with any such offence shall be made to the High Court at Bombay. In all other cases the commitments made within the limits of the jurisdiction of the Court of the Resident for offences punishable under the Indian Penal Code, shall be made to the Court of the Resident.

European British subjects charged with offences punishable with death, to be committed for trial to High Court at Bombay

XXII. If any European British subject shall be charged in Aden with any offence (other than an offence punishable with death under the Indian Penal Code) which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to the Court of the Resident, and shall be tried by the Resident.

Commitment and trial of such subjects, when charged with offences other than those punishable with death.

CRIMINAL PROCEDURE.

XXIII. Save as in this Act otherwise provided, the proceedings in all Criminal cases of any description brought in any Court in Aden shall be regulated by the Code of Criminal Procedure.

Proceedings in Criminal cases how to be regulated.

XXIV. Criminal trials before the Resident as a Court of Session, in which a European (whether a British subject or not) or an American is the accused person or one of the accused persons, shall be by jury, and in such case the jury, if such European or American shall desire it, shall consist of at least one half Europeans or Americans, if such a jury can be procured.

Trial of European or American by the Resident to be by jury.

XXV. The Resident shall from time to time prepare and make out in alphabetical order, a list of persons residing at Aden who are in the judgment of the Resident qualified from their education and character to serve as Jurors. The list shall contain the names, places of abode, and quality or business of every such person, and shall mention the race to which he belongs.

List of Jurors.

XXVI. Copies of such list shall be stuck up in the Court of the Resident, and every such copy shall have subjoined to it a notice stating that objections to the list will be heard and determined by the Resident at a time and place mentioned in the notice.

Publication of List.

XXVII. All

XXVII. All the provisions of the Criminal Procedure Code as to Jurors and the list of Jurors shall be applied, so far as the same can be applied respectively, to Jurors and the list of Jurors under this Act: provided that no person shall be exempt from the liability to serve as a Juror on the ground only of his being in the Military Service: provided also that the Jurors shall be summoned by the Resident.

Provisions of Criminal Procedure Code to apply to Jurors

Persons in Military Service not exempted from serving as Jurors

XXVIII. If on any trial, sentence of death shall be passed by the Resident, such sentence shall not be carried into execution until it shall have been confirmed by the High Court at Bombay. It shall be lawful for the High Court at Bombay, in any case in which it shall seem proper so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

Execution or commutation of sentence of death

XXIX. No appeal shall lie from an order or sentence passed by the Resident in any Criminal case. But it shall be at the discretion of the Resident to reserve any point or points of law for the opinion of the said High Court.

No appeal from order of Resident, but he may reserve points for High Court.

XXX. On such point or points of law being so reserved as in the last preceding Section mentioned, or on its being certified by the Advocate-General at Bombay that in his judgment there is an error in the decision of a point or points of law decided by the Resident, or that a point of law decided by the said Resident should be further considered, the said High Court shall have full power and authority to review the case or such part of it as may be necessary, and finally determine such point of law, and thereupon to pass such judgment and sentence as to the said High Court shall seem right.

Review of case by High Court.

GENERAL RULES.

XXXI. The High Court at Bombay shall have power to make and issue general rules for regulating the practice and proceedings of the Court of the Resident, and also to frame forms for every proceeding in the said Court for which the said High Court shall think it necessary that a form should be provided, for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted by the Court of the Resident, and from time to time to alter any such rule or form: provided that such rules and forms shall not be inconsistent with the provisions of this Act, or of any other law in force.

High Court to frame rules for Resident's Court.

ACT No. III OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th February 1864.)

An Act to give the Government certain powers with respect to Foreigners.

Preamble.

WHEREAS it is expedient to make provision to enable the Government to prevent the subjects of Foreign States from residing or sojourning in British India, or from passing through or travelling therein, without the consent of the Government; It is enacted as follows:—

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"British India."

The words "British India," shall denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chap. 106, entitled "An Act for the better Government of India":

"Local Government."

The words "Local Government," shall denote the persons authorized to administer the Executive Government in any part of British India, or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such Chief Executive Officer shall, by an order of the Governor-General of India in Council published in the Gazette of India, be authorized to exercise the powers vested by this Act in a local Government:

"Foreigner."

The word "Foreigner" shall denote a person, not being either a natural-born subject of Her Majesty within the meaning of the Statute 3 and 4 William IV, Chap. LXXXV, Section 81, or a Native of British India:

"Magistrate of the District."

The words "the Magistrate of the District," shall denote the Chief Officer charged with the Executive administration of a District and exercising the powers of a Magistrate, by whatever designation

PRICE 1 ANNA AND 6 PIES.

designation the Chief Officer charged with the Executive administration is styled, or, in the absence of such Officer from the Station at which his Court is usually held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure:

"Vessel."

The word "Vessel" shall include any thing made for the conveyance by water of human beings or property:

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender.

Words importing the masculine gender shall include females.

Proof of being a Foreigner.

II. If a question shall arise whether any person alleged to be a Foreigner and to be subject to the provisions of this Act is a Foreigner or not, or is or is not subject to the provisions of this Act, the onus of proving that such person is not a Foreigner, or is not subject to the provisions of this Act, shall lie upon such person.

Government may order any Foreigner to remove himself.

III. The Governor-General of India in Council may, by writing, order any Foreigner to remove himself from British India, or to remove himself therefrom by a particular route to be specified in the order; and any local Government may, by writing, make the like order with reference to any Foreigner within the jurisdiction of such Government.

Foreigner refusing to remove, or returning without license after removal, may be apprehended and detained.

IV. If any Foreigner ordered to remove himself from British India, or ordered to remove himself therefrom by a particular route, shall neglect or refuse so to do; or if any Foreigner, having removed himself from British India in consequence of an order issued under any of the provisions of this Act, or having been removed from British India under any of the said provisions, shall wilfully return thereto without a license in writing granted by the Governor-General of India in Council or by the local Government under whose order he shall have removed himself or been removed,—such Foreigner may be apprehended and detained in safe custody, until he shall be discharged therefrom by order of the Governor-General of India in Council, or of the local Government within whose jurisdiction he shall be so apprehended or detained, upon such terms and conditions as the said Governor-General of India in Council or local Government shall deem sufficient for the peace and security of British India, and of the Allies of Her Majesty, and of the neighbouring Princes and States.

V. Whenever

Governor-General may order all the provisions of this Act to be in force in British India, or in any part thereof.

V. Whenever the Governor-General of India in Council shall consider it necessary to take further precautions in respect of Foreigners residing or travelling in British India or any part thereof, it shall be lawful for the Governor-General of India in Council, by a Notification published in the Gazette of India, to order that the provisions of this and the subsequent Sections of this Act shall be in force in British India, or in such part thereof as shall be specified in such Notification, for such period as shall be therein declared; and thereupon, and for such period, the whole of this Act including this and the subsequent Sections shall have full force and effect in British India or such part thereof as shall have been so specified. The Governor-General of India in Council may from time to time, by a Notification published as aforesaid, cancel or alter any former Notification which may still be in force, or may extend the period declared therein. Provided that none of the provisions of this or the subsequent Sections of this Act shall extend to any Foreign Minister duly accredited by his Government; to any Consul or Vice-Consul; to any person under the age of fourteen years; or to any person in the service of Her Majesty.

Proviso.

Every Foreigner to report his arrival in India in certain cases.

VI. Every Foreigner on arriving in any part of British India in which all the provisions of this Act are for the time being in force under an order issued as provided in the last preceding Section, from any port or place not within British India, or from any port or place within British India where all the provisions of this Act are not in force, shall, if he arrive at a Presidency Town forthwith report himself to the Commissioner of Police of such Town, or, if he arrive at any other place then he shall forthwith report himself to the Magistrate of the District, or to such other Officer as shall be appointed to receive such reports, by the Governor-General of India in Council or by the local Government of such place.

What to be stated in the report.

VII. The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name or names, the Nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such Presidency Town or other place. The report shall be recorded by the Officer to whom it is made.

Foreigners, being Masters of vessels or employed therein, to report themselves when they cease to be so employed.

VIII. The provisions of the last two preceding Sections shall not e
any person being the Master or Commander of
employed therein, but if any such pe
part of British India in which all

Act are for the time being in force, after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.

Foreigners neglecting to report themselves, may be dealt with in like manner as Foreigners travelling without a license.

IX. If any Foreigner shall neglect to report himself as required by this Act, he may be dealt with in the manner hereinafter provided in respect of Foreigners travelling without a license.

No Foreigner to travel in India without a license.

X. No Foreigner shall travel in or pass through any part of British India in which all the provisions of this Act are for the time being in force without a license.

License by whom to be granted.

XI. Licenses under this Act may be granted by the Governor-General of India in Council or by any of the local Governments, under the signature of a Secretary to the Government of India or to such local Government as the case may be, or by such other Officers as shall be specially authorized to grant licenses by the Governor-General of India in Council, or by any of the local Governments.

What to be stated in license.

XII. Every such license shall state the name of the person to whom the license is granted, the Nation to which he belongs, the District or Districts through which he is authorized to pass or the limits within which he is authorized to travel, and the period (if any) during which the license is intended to have effect.

License may be granted subject to conditions, and may be revoked.

XIII. The license may be granted subject to such conditions as the Governor-General of India in Council or the local Government may direct, or as the Officer granting the license may deem necessary. Any license may be revoked at any time by the Governor-General of India in Council, or by the local Government of any part of British India in which all the provisions of this Act are for the time being in force and in which the Foreigner holding the same may be, or by the Officer who granted the license.

Foreigner travelling without [illegible] contrary to the conditions [illegible]nse, may be apprehended.

XIV. If any Foreigner travel in or attempt to pass through any part of British India without such license as aforesaid, or beyond the Districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of [illegible]nditions therein specified, he may be apprehended without warrant by [illegible] [illegible]rcising any of the powers of a Magistrate, or by any European [illegible]fficer in the service of Her Majesty, or by any member of a Volunteer

Volunteer Corps enrolled by authority of Government whilst on duty, or by any Police Officer.

Procedure upon apprehension.

XV. If any person be apprehended by a person not exercising any of the powers of a Magistrate and not being a Police Officer, he shall be delivered over as soon as possible to a Police Officer, and forthwith carried before the Magistrate of the District. Whenever any person shall be apprehended by or taken before the Magistrate of the District, such Magistrate shall immediately report the case to the local Government to which he is subordinate, and shall cause the person brought before him to be discharged, or to be conveyed to one of the Presidency Towns, or pending the orders of such Government to be detained.

Magistrate to report to Government.

Persons apprehended may be admitted to bail.

XVI. Any person apprehended or detained under the provisions of this Act, may be admitted to bail by the Magistrate of the District, or by any Officer authorized to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

Removal of persons apprehended.

XVII. The local Government of any part of British India in which all the provisions of this Act are for the time being in force, may order any person apprehended or detained under the provisions of this Act to remove himself from any such part of British India, by sea or by such other route as the said local Government may direct; or the said local Government may cause him to be removed from such part of British India by such route and in such manner as to such local Government shall seem fit. The Governor-General of India in Council may exercise all the powers given by this Section to any local Government.

Governor-General may prohibit persons not being natural-born subjects from travelling or passing through any part of India without a license.

XVIII. The Governor-General of India in Council may by order prohibit any person or any class of persons not being natural-born subjects of her Majesty within the meaning of the Statute 3 and 4 William IV, chap. LXXXV, Section 81, from travelling in or passing through any part of British India in which all the provisions of this Act may for the time being be in force, and from passing from any part thereof to another without a license to be granted by such Officer or Officers as shall be specified in the order: and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII in the same manner as if he were a Foreigner: and the Governor-General

General of India in Council may order such person to be detained in safe custody or under the surveillance of the Police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Also the local Governments within their respective jurisdictions

XIX. The local Government of any Presidency or place in which all the provisions of this Act may for the time being be in force, may by order prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV, chap. LXXXV, Section 81, from travelling in or passing through such Presidency or place or any part thereof, and from passing from any part thereof to another, without a license to be granted by such Officer or Officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII in the same manner as if he were a Foreigner; and the local Government may order such person to be detained in safe custody or under the surveillance of the Police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Certain Officers may board vessels to ascertain whether Foreigners are on board.

XX. It shall be lawful for the Commissioner of Police, or for the Magistrate of the District, or for any Officer appointed to receive reports as mentioned in the sixth Section of this Act, or for any Police Officer under the authority of such Commissioner or Magistrate, to enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being be in force, in order to ascertain whether any Foreigner bound to report his arrival under the said Section VI of this Act is on board of such vessel; and it shall be lawful for such Commissioner of Police, Magistrate, or other Officer as aforesaid, to adopt such means as may be reasonably necessary for that purpose; and the Master or Commander of such vessel shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of Police, Magistrate, or other Officer as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation or intended disembarkation, and answer to the best of his knowledge all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate,

Master of vessel to furnish list of passengers, and to give information respecting them.

or

or other Officer as aforesaid. If any Foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuit in India, or if his account thereof shall not be satisfactory, the Officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a Foreigner travelling in British India without a license.

Foreigner refusing to give account of himself, not to be allowed to disembark

XXI. If the Master or Commander of a vessel shall wilfully give a false answer to any question which by Section XX of this Act he is bound to answer, or shall make any false report, he shall be held to have committed the offence specified in Section 177 of the Indian Penal Code.

Penalty for false answer or report.

XXII. If the Master or Commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act, he shall, on conviction before the Magistrate of the District or a Justice of the Peace, be liable to a fine not exceeding two thousand Rupees.

Penalty for neglect by Master of vessel to comply with requisitions of Act.

XXIII. Whoever intentionally obstructs any Officer in the exercise of any of the powers vested in him by this Act, shall be held to have committed the offence specified in Section 186 of the Indian Penal Code.

Penalty for obstructing Officers.

XXIV. All fines imposed under this Act may, according as they shall have been imposed for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras and Bombay, be recovered by a Magistrate of Police or by the Magistrate of the District in the manner prescribed in Section XXVI of Act XLVIII of 1860 (*to amend Act XIII of* 1856 *for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*).

Fines imposed under this Act how to be recovered.

XXV. The Governor-General of India in Council, or the local Government of any part of British India in which this Act may for the time being be in force, may exempt any person, or any class of persons, either wholly or partially, or temporarily or otherwise, from all or any of the provisions of this Act contained in any of the Sections subsequent to Section V, and may at any time revoke any such exemption.

Persons may be exempted from provisions of this Act.

ACT No. IV of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th February 1864.)

An Act to give validity to certain proceedings of the Court of Small Causes of Kurrachee.

Preamble.

WHEREAS the Court of Small Causes of Kurrachee was constituted by the Governor in Council of Bombay on the fifth day of July 1861 without the previous sanction of the Governor-General of India in Council as required by Section 1 of Act XLII of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter)* having been given: and whereas the sanction of the Governor-General of India in Council to the constitution of the said Court was granted on the twenty-eighth day of November 1863: and whereas doubts are entertained as to the validity of the orders and decisions passed and the proceedings held by the said Court before the twenty-eighth day of November 1863, and it is desirable that such doubts should be removed: It is enacted as follows:—

Sanction given by Governor-General to constitution of Small Cause Court at Kurrachee to have effect as if given before 5th July 1861.

I. The sanction given by the Governor-General of India in Council on the twenty-eighth day of November 1863 to the constitution of the Court of Small Causes of Kurrachee, shall have the same effect as if it had been given before the fifth day of July 1861: and no order or decision passed, and no proceeding held by the said Court on or after the said fifth day of July 1861, and before the said twenty-eighth day of November 1863, shall be deemed to be invalid merely by reason of such order or decision having been passed, or such proceeding having been held, without the sanction of the Governor-General of India in Council to the constitution of the said Court having been previously given.

PRICE 6 PIES.

ACT No. V of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th February 1864.)

An Act to give validity to the extension of the Code of Civil Procedure to the Province of Scinde from the first day of January 1862.

Preamble.

WHEREAS the Province of Scinde is a part of the territories subordinate to the Government of Bombay, but not subject to the General Regulations of Bengal, Madras, and Bombay: and whereas the Code of Civil Procedure, subject to certain restrictions, limitations, and provisos, was on and from the first day of January 1862 extended by the Governor in Council of Bombay to the said Province, without the previous sanction of the Governor-General of India in Council as required by Section 39 of Act XXIII of 1861 *(to amend Act VIII of 1859)*: and whereas the Governor-General of India in Council on the twenty-eighth day of November 1863 gave his sanction to the extension of the Code of Civil Procedure, subject to the said restrictions, limitations, and provisos, to the said Province: and whereas doubts are entertained as to the validity of orders and decisions passed and proceedings held by the Courts in Scinde under the said Code of Civil Procedure before the grant of the sanction of the Governor-General of India in Council as aforesaid: It is enacted as follows:—

Sanction given by Governor-General to the extension of the Code of Civil Procedure to Scinde, to have effect as if given before 1st January 1862.

I. The sanction given by the Governor-General of India in Council on the twenty-eighth day of November 1863 to the extension of the Code of Civil Procedure to the Province of Scinde, shall have the same effect as if it had been given before the first day of January 1862: and no order or decision passed and no proceeding held by any Court in the said Province on or after the said first day of January 1862 and before the said twenty-eighth day of November 1863, shall be deemed to be invalid merely by reason of such order or decision having been passed or of such proceeding having been held under the said Code of Civil Procedure as extended to the said Province by the Governor in Council of Bombay as aforesaid without the sanction of the Governor-General of India in Council.

PRICE 6 PIES.

ACT No. VI of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th February 1864.)

An Act to authorize the punishment of whipping in certain cases.

Preamble.

WHEREAS it is expedient that in certain cases offenders should be liable, under the provisions of the Indian Penal Code, to the punishment of whipping; It is enacted as follows:—

Whipping added to the punishments described in Section 53 of the Penal Code.

I. In addition to the punishments described in Section 53 of the Indian Penal Code, offenders are also liable to whipping under the provisions of the said Code.

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

II. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say:—

1. Theft, as defined in Section 378 of the said Code.

2. Theft in a building, tent, or vessel, as defined in Section 380 of the said Code.

3. Theft by a clerk or servant, as defined in Section 381 of the said Code.

4. Theft after preparation for causing death or hurt, as defined in Section 82 of the said Code.

5. Extortion by threat, as defined in Section 388 of the said Code.

6. Putting a person in fear of accusation in order to commit extortion, as defined in Section 389 of the said Code.

7. Dishonestly receiving stolen property, as defined in Section 411 of the said Code.

8. Dishonestly

8. Dishonestly receiving property stolen in the commission of a Dacoity, as defined in Section 412 of the said Code.

9. Lurking house-trespass, or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

10. Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

On second conviction of any offence mentioned in last Section, whipping may be added to other punishment.

III. Whoever, having been previously convicted of any one of the offences specified in the last preceding Section, shall again be convicted of the same offence, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

IV. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say:—

1. Giving or fabricating false evidence in such manner as to be punishable under Section 193 of the Indian Penal Code.

2. Giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in Section 194 of the said Code.

3. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in Section 195 of the said Code.

4. Falsely charging any person with having committed an unnatural offence, as defined in Sections 211 and 377 of the said Code.

5. Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in Section 354 of the said Code.

6. Rape, as defined in Section 375 of the said Code.

7. Unnatural offences, as defined in Section 377 of the said Code.

8. Robbery

8. Robbery or Dacoity, as defined in Sections 390 and 391 of the said Code.

9. Attempting to commit Robbery, as defined in Section 393 of the said Code.

10. Voluntarily causing hurt in committing robbery, as defined in Section 394 of the said Code.

11. Habitually receiving or dealing in stolen property, as defined in Section 413 of the said Code.

12. Forgery, as defined in Section 463 of the said Code.

13. Forgery of a document, as defined in Section 466 of the said Code.

14. Forgery of a document, as defined in Section 467 of the said Code.

15. Forgery for the purpose of cheating, as defined in Section 468 of the said Code.

16. Forgery for the purpose of harming the reputation of any person, as defined in Section 469 of the said Code.

17. Lurking house-trespass or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

18. Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

Juvenile Offenders punishable with whipping for offences not punishable with death.

V. Any juvenile offender who commits any offence which is not by the Indian Penal Code punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

When offences specified in Section IV may be punished with whipping in Frontier Districts and wild tracts.

VI. Whenever any local Government shall by notification in the Official Gazette have declared the provisions of this Section to be in force in any Frontier District or any wild tract of country within the jurisdiction of such local Government, any person who shall in such district or tract of country after such notification as aforesaid commit any of the offences specified in Section IV of this Act, may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.

VII. No

Exemption of females.

VII. No female shall be punished with whipping, nor shall any person who may be sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years, be punished with whipping

Officers inferior to Subordinate Magistrate of the 1st Class not to pass sentence of whipping unless expressly empowered by Government.

VIII. No sentence of whipping shall be passed by any Officer inferior to a Subordinate Magistrate of the first class, unless he shall have been expressly empowered by the local Government to pass sentences of whipping.

Whipping if awarded in addition to imprisonment, when to be inflicted.

IX. When the punishment of whipping is awarded in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or if an appeal be made within that time, until the sentence is confirmed by the superior Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or in case of an appeal immediately on the receipt of the order of the Court confirming the sentence if such order shall not be received within the fifteen days.

Mode of inflicting the punishment.

X. In the case of an adult, the punishment of whipping shall be inflicted with such instrument in such mode and on such part of the person as the local Government shall direct, and in the case of a juvenile offender, it shall be inflicted in the way of school discipline with a light rattan. In no case, if the cat of nine tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or if the rattan be employed shall the punishment exceed thirty stripes. The punishment shall be inflicted in the presence of a Justice of the Peace, or of an Officer authorized to exercise any of the powers of a Magistrate, and also, unless the Court which passed the sentence shall otherwise order, in the presence of a Medical Officer.

Punishment not to be inflicted if offender not in fit state of health.

XI. No sentence of whipping shall be carried into execution unless a Medical Officer, if present, certifies, or unless it appears to the Justice of the Peace or other Officer present, that the offender is in a fit state of health to undergo the punishment; and if during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, execution shall be stayed. No sentence of whipping shall be executed by instalments.

Nor by instalments.

XII. In

Procedure if punishment cannot be inflicted under the last Section.

XII. In any case in which, under the last preceding Section of this Act, no part of a sentence of whipping is carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion, either order the discharge of the offender, or sentence him in lieu of whipping to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence; provided that the whole period of imprisonment shall not exceed that to which the offender is liable under the provisions of the Indian Penal Code, or that which the said Court is competent to award.

ACT No. VII of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 25th February 1864.)

An Act for regulating the importation and manufacture of alimentary Salt, in the Territories administered by the Chief Commissioner of the Central Provinces.

Preamble.

WHEREAS it is expedient to provide for the levy of a Customs duty upon Salt in the Territories administered by the Chief Commissioner of the Central Provinces, and to extend to the said Territories certain provisions of Act XIV of 1843 *(for regulating the levy of Customs duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal)*, and of Act XXXVI of 1855 *(to empower Officers of Customs and land revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces)*, and of Act XIX of 1862 *(to extend to the Province of Oude certain provisions of Acts XIV of* 1843 *and XXXVI of* 1855 *relating to the manufacture of contraband Salt, and to amend the last named Act)*; It is enacted as follows:—

Section XIV of Act XIV of 1843 partially repealed.

So much of Section XIV of Act XIV of 1843 as declares that nothing in the said Act contained shall apply or be deemed to apply to the Saugor and Nerbudda Territories, is hereby repealed.

Customs duty on Salt imported into the Central Provinces.

II. It shall be lawful for the Governor-General in Council to order the levy of a Customs duty not exceeding three Rupees per maund on Salt imported into the Territories administered by the Chief Commissioner of the Central Provinces.

Certain provisions of Act XIV of 1843, of Act XXXVI of 1855, and of Act XIX of 1862, extended to the Central Provinces

III. So much of Sections III, IV, V, VI, VII, VIII, IX, X, XI, XII and XIII of Act XIV of 1843 as relates to the manufacture and importation of alimentary Salt, and to the prevention and punishment of the illicit manufacture and importation of such Salt, and Sections I, II, III, V, VI, VII, VIII and IX of Act XXXVI of 1855, and Section II of Act

Act XIX of 1862 are hereby extended to the Territories administered by the Chief Commissioner of the Central Provinces.

Indemnity to Collectors of Customs and others.

IV. Every Collector of Customs and other Officer in the Territories administered by the Chief Commissioner of the Central Provinces, however such Officer is designated, is hereby indemnified for any thing done before the passing of this Act, which might lawfully have been done if this Act had been in force, and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

ACT No. VIII OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 2nd March 1864.)

An Act to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company.

Preamble.

WHEREAS certain persons have formed themselves into a Company at Paris for the transaction of Banking business under the name of the "Comptoir D'Escompte of Paris:" and whereas the said Company is constituted and established under and by virtue of various Imperial decrees of the French Government, Notarial Acts, and Articles of Agreement, whereby it is provided (amongst other things) that the said Company may continue to exist and carry on business for a term of thirty years from the eighteenth day of March 1857, that the shareholders of the Company shall be responsible only to the amount of their shares respectively, that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass, and that the Company may establish, on its own responsibility, and with the authority of the Minister of Finance, Agencies in France and in French or Foreign Colonies, such Agencies to be organized and conducted in the same manner as the Comptoir D'Escompte itself: and whereas Agencies of the said Company have been recently established in Calcutta and in Bombay: and whereas on the thirtieth day of April 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say, "First—The High contracting parties declare that they mutually grant to all Companies and other Associations, commercial, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the Tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions. Second—It is agreed that the stipulations of the preceding Article shall apply as well to Companies and Associations constituted

PRICE 1 ANNA AND 6 PIE.

constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. Third—The present Convention is concluded without limit as to duration. Either of the High Powers shall however be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers moreover reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable:" and whereas it is desirable that effect should be given to the said Convention so far as the Comptoir D'Escompte and its Agencies now or hereafter established are concerned: It is enacted as follows:—

"British India."

I. Unless the contrary appears from the context, in construing this Act, the words "British India" denote the Territories which are or may become vested in Her Majesty the Queen by the Statute 21 and 22 Vic. Ch. 106, entitled "an Act for the better Government of India", except the settlement of Prince of Wales' Island, Singapore, and Malacca:

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number:

Gender.

Words importing the masculine gender include females:

"Person."

The word "person" includes any Company or Association or body of persons whether incorporated or not.

All suits and proceedings by, or on behalf of, or against, the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager for the time being of the Agencies in British India, as the nominal plaintiff or defendant, and shall not abate, &c., on death or removal of such Manager.

II. From and after the passing of this Act, all suits and other proceedings whatsoever, for any injury or wrong done to any real or personal property of the said Comptoir D'Escompte, in whomsoever the same may for the time being be vested, whether in the said Company, or in some person or persons in trust for the said Company, or upon or in respect of any present liability to the said Comptoir D'Escompte, or upon any Bonds, Covenants, Contracts, or Agreements which already have been or hereafter shall be given to or entered into with the said Company, or to or with any person whomsoever in trust for the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested, and also all instruments and petitions to found any adjudication of Insolvency in any Court

Court against any person indebted to the said Comptoir D'Escompte, and liable to have been made Insolvent by the laws now or at any time hereafter in force relating to Insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on, by or on behalf of the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir D'Escompte at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir D'Escompte, and all suits and proceedings, as well for subsisting as future accruing claims, debts, or demands to be commenced against the said Comptoir D'Escompte by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall be commenced and prosecuted against the said Chief Manager for the time being, as the nominal defendant or respondent for and on behalf of the said Comptoir D'Escompte, and the death, removal, resignation or any other act of such Chief Manager, or his bankruptcy or insolvency shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other the Chief Manager for the time being of the said Agencies.

In criminal proceedings, property whether vested in Comptoir D'Escompte or Trustees, may be described as property of Comptoir or of Chief Manager.

III. From and after the passing of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir D'Escompte, for fraud or injury upon or against the said Comptoir D'Escompte, or for any offence whatever relating to any money, notes, bills, effects, securities, or any real or personal property of the said Comptoir D'Escompte, or for any other offence against the said Comptoir D'Escompte, it shall be lawful to state such money, notes, bills, effects and securities, and other real and personal property, in whomsoever the same may be vested, whether in the said Comptoir D'Escompte, or in some person or persons in trust for the said Comptoir D'Escompte, to be the money, notes, bills, effects and securities, or property of the said Comptoir D'Escompte, or of the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte; and any offence committed with intent to injure or defraud the said Comptoir D'Escompte, shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, and any offender may thereupon be lawfully convicted of any such offence; and

and in all other proceedings in which, before the passing of this Act, it would have been necessary to state the names of the persons composing the said Comptoir D'Escompte, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation, or removal of such Chief Manager shall not abate or render defective, or in anywise affect or prejudice such criminal proceedings.

Actions against the Comptoir on contracts with it not to be defeated because plaintiff is a partner.

IV. No suit which may be commenced in any Court in British India against the said Comptoir D'Escompte, or the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte, upon or arising out of any contract entered into by or on behalf of the said Comptoir D'Escompte, shall be in any wise affected or defeated by reason of the plaintiff therein, or of any other person who may be in any wise interested in such action, being a shareholder or partner of or in the said Comptoir D'Escompte; but any shareholder or partner of or in the said Comptoir D'Escompte, shall have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, upon any contract, and for any debt, damage, or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir D'Escompte.

Suit by Comptoir on contract not to be defeated because defendant is a partner

V No suit commenced by or on behalf of the said Comptoir D'Escompte in the name of the Chief Manager for the time being as aforesaid by virtue of this Act, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir D'Escompte, or for the recovery of any debt, damage, or demand whatsoever due or owing to the said Comptoir D'Escompte, or for any other cause or any other account, shall be in any wise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in any wise interested in such suit, being a shareholder or partner of or in the said Comptoir D'Escompte, but the said Comptoir D'Escompte shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir D'Escompte, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage, or demand whatsoever, which the said Comptoir D'Escompte might have had if such cause of action had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir D'Escompte.

VI. The

Chief Manager to cause a memorial to be enrolled containing certain particulars.

VI. The Chief Manager of the Agencies in British India of the said Comptoir D'Escompte shall have an Office for the transaction of the business of the Comptoir D'Escompte. He shall cause a memorial, in the form and to the effect set forth in the Schedule (A) to this Act annexed, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature within the jurisdiction of which his Office is situated, to be enrolled amongst the records of the said High Court. Such memorial shall, prior to being enrolled, be signed by the said Chief Manager, and shall be accompanied by or have annexed thereto, or endorsed thereon, copies of the decrees, notarial acts, articles, and other instruments under which the Company is established, and copies of the various rules under which the business of the Company is conducted. The memorial shall set forth the situation of the Office of the Chief Manager and of every other Office and place in British India in or at which the business of the Comptoir D'Escompte is carried on: and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the Comptoir D'Escompte shall have set aside for their working capital in British India, and if the last mentioned capital be other than money, then a statement of how it stands invested, and in whose name.

Authority of Chief Manager to be authenticated.

VII. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the decrees, acts, deeds, and other documents accompanying the memorial shall be authenticated by the signature and seal of the French Financial Minister, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.

Memorial of change in Chief Manager or in facts set forth in former memorial to be enrolled.

VIII. Whenever any new Chief Manager of the Agencies in British India of the said Company shall be appointed, or any change in or addition to any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in the Schedule (B) to this Act annexed, verified as aforesaid, shall, within twelve calendar months after such appointment, change, or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.

IX. If

IX. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of Section 199 of the Indian Penal Code.

False declaration an offence under the Penal Code.

X. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no action or suit shall be brought by the said Comptoir D'Escompte under the authority of this Act: and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir D'Escompte, shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled, shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Comptoir not to sue under this Act till after enrollment of memorial, and person named in last memorial to remain liable till fresh memorial is enrolled.

XI. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial; and proof shall not be required that the person by whom the memorial purports to be verified was, at the time of such verification, Chief Manager as aforesaid of the said Agencies.

Examined copy to be a proof of contents of memorial.

XII. Execution on every judgment, decree, and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager for the time being as aforesaid, shall and may be issued and enforced against any property in British India belonging to the Comptoir D'Escompte. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment, shall in all suits against the Chief Manager have full force and effect as regards property in British India belonging to the Comptoir D'Escompte. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in British India, nor any thing in this Act, shall in any way prejudice

Judgment or order against Chief Manager how to be executed.

or

or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the thirtieth of April 1862, for the recovery of the amount unrecovered.

No person to bring more than one suit for the same demand against any Chief Manager, nor the Comptoir against any other person.

XIII. No person having or claiming to have any demand upon or against the said Comptoir D'Escompte shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in British India, for the same cause against any other such Chief Manager; and in case of any demand which the said Comptoir D'Escompte now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir D'Escompte or not, and which shall have been determined in any action or suit commenced or prosecuted by the Chief Manager for the time being, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other such Chief Manager as aforesaid.

SCHEDULE (A).

Referred to in Section VI of this Act.

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris pursuant to Act VIII of 1864 of the Governor-General of India in Council, intituled "An "Act to enable the Comptoir D'Escompte of Paris to sue and be sued in the name "of the Chief Manager of the Indian Agencies of the said Company," setting forth the particulars prescribed by Section VI of the said Act.

Situation of Office of Chief Manager ... ...
Situation of other Offices and places in British India ...
Entire Nominal Capital of the Company ... ...
Paid-up Capital ... ...
Number of Shares ... ...
Amount of each Share ... ...

Amount

Amount of Capital set aside for operations in British India...
Mode in which the same is invested... ... ...
Name in which the same is invested ... ...

I, *A. B.*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) A. B.

Declared &c., before me, a Judge of the High Court of Judicature at

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SCHEDULE (B).

Referred to in Section VIII of this Act.

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, pursuant to Act VIII of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte, &c.," *(as in foregoing)*, setting forth particulars of change or changes as prescribed by Section VIII of the said Act.

Name and description of new Chief Manager ... ...
or
New situation of Office of Chief Manager ... ...
or
Other change ... ...

I, *C. D.*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) C. D.

Declared before me, &c., &c. *(as before)*.

ACT No. IX of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 9th March 1864.)

An Act to repeal Act VIII of 1861 *(for the levy of Port-dues in the Port of Amherst).*

Preamble.

Whereas it is expedient that Act VIII of 1861 *(for the levy of Port-dues in the Port of Amherst)* be repealed: It is enacted as follows:—

Act VIII of 1861 repealed.

I. Act VIII of 1861 is hereby repealed.

Date on which Act comes into operation.

II. This Act shall come into operation on the first day of May 1864.

PRICE 3 PIES.

ACT No. X of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 9th March 1864.)

An Act to extend Act XXI of 1856 (to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).

Preamble.

Whereas it is expedient to give the Governor-General of India in Council power to extend the provisions of Act XXI of 1856 *(to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal)* to any of the Provinces under the immediate administration of the Governor-General of India in Council in which the said Act is not now in force: It is enacted as follows:—

Governor-General of India in Council may extend Act XXI of 1856 to certain Non-Regulation Provinces.

I. It shall be lawful for the Governor-General of India in Council, by order published in the Gazette of India, to extend the provisions of the said Act XXI of 1856 to any province or place under the immediate administration of the Governor-General of India in Council.

Governor-General in Council to declare the authorities by whom Act XXI of 1856 is to be administered.

II. Whenever the Governor-General of India in Council shall extend the said Act XXI of 1856 to any province or place under the powers hereinbefore in that behalf contained, the Governor-General in Council shall by notification in the Gazette of India declare the authorities by whom the said Act XXI of 1856 shall be administered in such province or place.

PRICE 3 PIES.

NAL SECRETARIAT LIBRARY

ACT No. XI of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th March 1864.)

An Act to repeal the Laws relating to the offices of Hindoo and Mahomedan Law Officers, and to the offices of Cazee-ool-Cozaat and of Cazee; and to abolish the former offices.

Preamble.

WHEREAS it is unnecessary to continue the offices of Hindoo and Mahomedan law officers, and is inexpedient that the appointment of Cazee-ool-Cozaat, or of City, Town or Pergunnah Cazees should be made by Government; It is enacted as follows:—

Regulations and Acts repealed.

I. The Regulations and Acts and parts of Regulations and Acts set forth in the Schedule annexed to this Act are hereby repealed, except so far as they repeal any other Regulation or Act or part of any other Regulation or Act.

This Act not to affect the performance of ceremonies, &c., by Cazees.

II. Nothing contained in this Act shall be construed so as to prevent a Cazee-ool-Cozaát or other Cazee from performing, when required to do so, any duties or ceremonies prescribed by the Mahomedan Law.

Schedule

PRICE 1 ANNA SIX PIE.

ACT No. XI of 1864.

SCHEDULE

Regulations and Acts and parts of Regulations and Acts Repealed.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation IV. 1793	Bengal Code	For receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad ...	So much of Section XV as declares that, in the respective cases mentioned in the said Section, the Mahomedan and Hindoo Law Officers of the Court are to attend to expound the law.
Regulation XII. 1793	Bengal Code	For the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature ...	The whole.
Regulation XXXIX. 1793 ...	Bengal Code	For the appointment of the Cazee-ool-Cozaat or Head Cazee of Bengal, Behar, and Orissa, and the Cazees stationed in the several districts, and prescribing their respective duties ...	The whole
Regulation VIII. 1795	Bengal Code	For extending to the Province of Benares, with alterations and modifications, Regulation IV. 1793, entitled "A "Regulation for receiving, "trying, and deciding suits "or complaints declared cog- "nizable in the Courts of "Dewanny Adawlut estab- "lished in the several Zillahs, "and in the Cities of Patna, "Dacca, and Moorsheda- "bad;" and for exempting the Rajah of Benares and the Baboos of his family, and certain Bankers, when defendants, from giving the security required from other defendants ...	So much of Section III as declares that, in the respective cases mentioned in the said Section, the Mahomedan and Hindoo Law Officers of the Courts are to attend and expound the law.

Number and date of Regulations.	What Code.	Title	Extent of Repeal.
Regulation XI. 1795...	Bengal Code	For extending, with modifications, to the Province of Benares, Regulation XII. 1793, entitled "a Regulation for the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature," and for appointing a Pundit or Pundits to the Provincial Court of Circuit for the Division of Benares, to expound the Hindoo Law in certain cases cognizable by that Court ...	The whole.
Regulation XLIX. 1795	Bengal Code	For appointing the Head Cazee of the Provinces of Bengal, Behar, and Orissa, Head Cazee of the Province of Benares, and for extending to that Province the Rules contained in Regulation XXXIX. 1793, regarding the Cazees stationed in the Cities, Towns, and other places in the three first mentioned Provinces ...	The whole.
Regulation II. 1798 ...	Bengal Code.	For authorizing a Review of Causes decided by the Civil Courts in certain cases; and for explaining parts of Regulations IV, V and VI. 1793 ...	Section IV.
Regulation III. 1803...	Bengal Code.	For receiving, trying, and deciding suits or complaints, declared cognizable in the Courts of Adawlut established in the several Zillahs in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company ...	So much of Clause First, Section XVI, as declares that the Mahomedan and Hindoo Law Officers of the Courts shall attend to expound the law of their respective persuasions in cases in which recourse may be required to be had to it; and that the Judge of the Zillah

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
			Court may further refer cases for the opinion of the Law Officers of the Superior Courts.
Regulation XI. 1803...	Bengal Code	For the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature, in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	The whole.
Regulation XLVI. 1803	Bengal Code	For the appointment of the Cazee-ool-Cozaat,, or Head Cazee of the Provinces of Bengal, Behar, Orissa, and Benares, to be the Head Cazee of the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company ...	The whole.
Regulation X. 1806	Bengal Code	For extending to the Judicial Department such parts of Regulation VIII. 1806, as are applicable to charges or information against the European public officers employed in that Department, and for making further provision in such cases ...	So much of Section X as relates to charges of corruption and extortion against the Hindoo and Mahomedan Law Officers.
Regulation VIII. 1809	Bengal Code	For modifying parts of the Rules in force respecting the appointment and removal of the Native Officers of Government in the Judicial, Revenue, and Commercial Departments ...	Sections III and IV.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XVIII. 1817	Bengal Code	To modify the Rules in force which prescribe an oath of office to be taken by certain Native Officers; and to explain and amend other provisions relative to the Native Ministerial Officers and Law Officers of the Civil and Criminal Courts ...	So much of Sections I, II, IV and VI as relates to Law Officers.
Regulation XI. 1826...	Bengal Code	For providing a succession of duly qualified Hindoo and Mahomedan Law Officers in the several Courts of Justice; and for enacting an additional Rule for the appointment of Vakeels in the Zillah and City Courts ...	Sections I, II, III and IV.
Regulation III. 1827...	Bengal Code	For modifying and amending the Rules in force relative to the Law Officers and Ministerial Native Officers of the Courts of Judicature, who may be guilty of corruption or extortion ...	So much of Sections I, II, III and IV as relates to Law Officers.
Regulation III. 1829...	Bengal Code	For abolishing certain official designations amongst the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, and of the Provincial Courts; for amending the Rules at present in force, which require the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, or other public Officers, to take the prescribed oaths of office before the Governor-General in Council; for providing for the decision of Civil suits and appeals in the Provincial Courts, in certain cases; for amending Regulation VIII. 1825, and for discontinuing the offices of Hindoo and Mahomedan Law Officer in the Provincial Courts ...	Section VII.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XI. 1802 .	Madras Code	For the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature ...	The whole.
Regulation III. 1808...	Madras Code	For the appointment of the Cazee-ool-Cozaat of the Provinces subject to the Presidency of Fort Saint George ...	The whole.
Regulation VII. 1822...	Madras Code	For rescinding Regulation I of 1809, and Regulation V of 1811, and for declaring that the appointment and removal of the Native public servants of Government shall be regulated by such orders as the Governor in Council may from time to time see fit to issue ...	Section III Clause 2.
Regulation III. 1828..	Madras Code	For improving the means of procuring for the Courts of Judicature correct expositions of the Hindoo and Mahomedan Law ...	The whole.
Regulation II. 1827 .	Bombay Code	For defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and Officers thereof ...	Clauses 2 and 3 Section XXXIV, and Section XXXV.
Regulation XXVI. 1827	Bombay Code	For the appointment and removal of Cazees, and for ensuring an efficient and regular discharge of their duties ...	The whole.

Number and date of Acts.	Title.	Extent of Repeal.
Act XXVII. 1836 ...	For the repeal of Regulation V. 1817 of the Madras Code ...	The whole.

Number

Number and date of Acts.	Title.	Extent of Repeal.
Act VII. 1843 ...	For abolishing the Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their functions; for establishing Courts constituted according to Regulations I and II, and Regulations VII and VIII of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the Civil Jurisdiction of such Courts ...	Section LI.
Act V. 1845 ...	Concerning the examination and appointment of Hindoo and Mahomedan Law Officers ...	The whole.

ACT No. XII OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th March 1864).

An Act to give further effect to the provisions of Act IV of 1863 (to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah).

Preamble

WHEREAS it is necessary to provide for the more effectual carrying out of the provisions of Act IV of 1863 *(to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah)*; It is enacted as follows:—

Governor-General in Council may pass rules to give effect to Act IV of 1863.

I. It shall be lawful for the Governor-General of India in Council to make and issue rules to give effect to the said Act IV of 1863, and regulate all matters relating to the import and export of goods or otherwise arising under that Act: and from time to time to add to, alter or revoke such rules or any of them. Provided that no rule so made shall be inconsistent with any provision of the said Act IV of 1863, and that the penalties prescribed in such rules for their infringement shall not exceed, and shall so far as circumstances will admit be the same as, or similar to, the penalties prescribed in the like cases by Act VI of 1863 *(to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India)*. All rules made under this Section shall be published in the Gazette of India.

Proviso.

Indemnity.

II. Every Collector of Customs, or other Officer, is hereby indemnified for every thing done on or after the date on which the said Act IV of 1863 came into operation, in collecting or enforcing the Duty imposed under the provisions of that Act, or by virtue of any order of Government or otherwise in carrying the said Act IV of 1863 into effect: and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

PRICE 3 PIES.

ACT No. XIII of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th March 1864).

An Act to consolidate and amend the laws relating to the Emigration of Native Laborers.

Preamble

WHEREAS it is expedient to consolidate and amend the laws relating to the Emigration of Native Laborers; It is enacted as follows:—

Acts repealed

I. From the date on which this Act shall come into operation, the Acts or parts of Acts set forth in the Schedule (A) annexed to this Act shall be held to be and are hereby repealed to the extent mentioned in the said Schedule, except so far as they repeal any other Act or Regulation, or part of any other Act or Regulation.

Interpretation.

II. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"Emigrate"
"Emigrant."

The word "Emigrate" shall denote the departure of any Native of India out of British India for the purpose of laboring for hire in some other place; and the word "Emigrant" shall denote any Native of India under engagement to emigrate:

"The Magistrate of the District."

The words "the Magistrate of the District" shall denote the Chief Officer charged with the Executive Administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with such Executive Administration is styled, or in the absence of such Officer from the Station at which his Court is ordinarily held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure:

The

PRICE 5 ANNAS AND 3 PIES.

"British India."

The words "British India" shall denote the Territories vested in Her Majesty by the Statute 21 and 22 Vic, cap. 106, entitled "An Act for the better government of India," except the settlement of Prince of Wales' Island, Singapore, and Malacca.

"Local Government"

The words "local Government" shall denote the person authorized by law to administer Executive Government in any part of British India:

"Section"

The word "Section" shall denote a section of this Act:

"Vessel".

The word "vessel" shall include any thing made for the conveyance by water of human beings or property:

Number

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular:

Gender

Words importing the masculine gender shall include females.

Contracts for labor out of India unlawful, except under this Act.

III. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labor to be performed in any place beyond British India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating: provided that nothing in this Act shall apply to any contract with any Native of India for labor to be performed in any Foreign Settlement on the main land of India or in any Native State in India, or to emigration to any such Settlement or State; or shall apply to any contract for labor to be performed in or to emigration to the Island of Ceylon; or shall apply to any contract with or the emigration of any Native Seaman or other person who of his own free will shall contract to navigate or serve on board of any vessel or who shall embark on board such vessel in pursuance of such contract, or any person who shall contract to serve as a menial servant only, and who shall embark as such menial servant.

Places for emigration to which contracts may be made with Natives.

IV. Contracts may be made with Natives of India to emigrate to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles, and to the Danish Colony

Colony of St. Croix; and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony.

Governor-General may declare emigration lawful to places other than those mentioned in the last Section.

V. The Governor-General of India in Council may from time to time, by notification published in the Gazette of India, declare that the emigration of Natives of India shall be lawful to any place other than the places mentioned in the last preceding Section: provided that every such notification shall contain also a declaration, that the Governor-General of India in Council has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor-General of India in Council thinks sufficient for the protection of Natives of India emigrating to such place.

Proviso.

Contracts may be made for emigration to places to which emigration is authorized by Governor-General.

VI. From the date of any such notification by the Governor-General of India in Council, contracts may be made with any Native of India for labor to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any Native of India to emigrate to such place; but all contracts and emigration under any such notification shall be made and conducted subject to the provisions of this Act.

From what ports emigration lawful.

VII. Emigration shall not be lawful except from the port of Calcutta, the port of Madras, or the port of Bombay.

Probable length of voyages.

VIII. The probable length of the voyages to the places enumerated in Section IV, from Calcutta, Madras, or Bombay respectively, shall for the purposes of this Act be deemed to be as follows:—

From Calcutta	To Mauritius and Seychelles	Between the months of April and October inclusive, 10 weeks; and between the months of November and March inclusive, 8 weeks.
	To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix	20 weeks.
	To Natal	12 weeks.
From Madras	To Mauritius and Seychelles	Between the months of April and October inclusive, 7 weeks; and between the months of November and March inclusive, 5 weeks.
	To Jamaica, British Guiana, Trinidad, St Lucia, Grenada, St. Vincent, St. Kitts and St. Croix	19 weeks.
	To Natal	10 weeks.

From

From Bombay ...	To Mauritius and Seychelles ...	Between the months of April and September inclusive, 5 weeks; and between the months of October and March inclusive, 6 weeks.
	To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix	19 weeks.
	To Natal	10 weeks.

Notification legalizing emigration to any new place shall give the probable length of the voyage.

IX. In every notification issued under Section V., there shall be stated the probable length of the voyages from Calcutta, Madras, and Bombay respectively, to every place to which emigration is by such notification authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

Appointment of Emigration Agent.

X. The Government of every place to which emigration shall be lawful under this Act may, from time to time, nominate a person to act as Emigration Agent in Calcutta, Madras, and Bombay respectively, but such nomination shall be subject to the approval of the local Government. Every Emigration Agent shall be liable to removal by the Government which nominated him.

The present Emigration Agents to be recognized as Emigration Agents under this Act.

XI. Every Emigration Agent who at the time when this Act shall come into operation shall have been nominated by the Government of any of the Colonies enumerated in Section IV, shall be deemed to have been nominated under this Act.

Remuneration of Agents

XII. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

Appointment of Protector of Emigrants.

XIII. It shall be lawful for the local Government to nominate a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and with the sanction of the Governor-General of India in Council to assign to such person such salary and establishment as shall be deemed proper. Every Protector of Emigrants shall be subject to removal by the local Government to which he is subordinate.

No Protector to hold other Office without permission.

XIV. No Protector of Emigrants nominated under this Act shall, except with the permission of the local Government, hold any other office under Government, or follow any other profession or occupation.

XV. Every

Existing Protectors to be deemed Protectors under this Act.

XV. Every Protector of Emigrants who at the time when this Act shall come into operation shall have been nominated by the local Government, shall be deemed to have been nominated under this Act.

General duties of the Protector of Emigrants.

As to inspecting vessels with return Emigrants.

XVI. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall so far as is in his power generally protect and aid with his advice or otherwise all Emigrants, and shall cause all the provisions of this Act to be duly complied with: he shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their service in the place to which they emigrated, and also during the voyage, and shall make a report thereon to the local Government, and he shall aid and advise such return Emigrants so far as he reasonably can when called upon by them to do so.

Appointment of Medical Officer.

XVII. At each of the three ports aforesaid, it shall be lawful for the local Government to nominate a competent person to be Medical Inspector of Emigrants; and with the sanction of the Governor-General of India in Council to assign to the Medical Inspector so nominated such salary as shall be deemed proper.

Depôts to be established in Calcutta, Madras, and Bombay, for each Emigration Agency.

XVIII. In each of the Towns of Calcutta, Madras, and Bombay, or in the Suburbs of those Towns, a suitable depôt shall be established by the Emigration Agent of every place to which emigration shall be lawful under this Act, for the persons who shall be engaged as laborers for such place; and by the Emigration Agent nominated by the French Government under Act XLVI of 1860 *(to authorize and regulate the Emigration of Native Laborers to the French Colonies)*, and Act VII of 1862 *(to amend Act XLVI of 1860)*, for the persons who shall be engaged as laborers for the French Colonies.

Licensing of depôts.

XIX. Every depôt shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants. No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he shall consider that the depôt for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for

for which the depôt was established. For every license granted under this Section there shall be paid to the Protector a fee of ten Rupees.

Inspection by Protector and Medical Inspector.

XX. Every Protector of Emigrants and every Medical Inspector of Emigrants shall, from time to time, and at least once in every week, inspect the Emigrants in the various depôts for the reception of Emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the depots, and the manner in which the Emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

Report to be made by Medical Inspector.

XXI. It shall be the duty of the Medical Inspector to report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depôt is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

Protectors and Medical Inspectors to be deemed Public Servants.

XXII. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be held to be a Public Servant within the meaning of the Indian Penal Code.

And to have every facility for inspections, &c.

XXIII. It shall be the duty of every Emigration Agent, and of all persons in charge of or employed in any depôt, or in any vessel licensed to carry Emigrants as hereinafter provided, to give the Protector and the Medical Inspector every facility for making such inspections, examinations, and surveys as may be necessary or proper under this Act, and to afford them all such information as may be reasonably required by them.

Protector of Emigrants to license Recruiters.

XXIV. The Protector of Emigrants at each of the three ports aforesaid, shall license so many fit persons as shall to him seem necessary, to be Recruiters of laborers, and no person shall act or be employed as a Recruiter of laborers except under a license from a Protector of Emigrants.

Recruiter's License.

XXV. Every Recruiter shall be licensed to obtain laborers for some particular place to which emigration shall be lawful under this Act, and no license to obtain laborers for any place shall be granted except on the application of the Emigration Agent of such place.

XXVI. No

XXVI. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

Duration of license, and cancelment in case of misconduct.

XXVII. Every license shall be in the form set forth in the Schedule (B) to this Act annexed. For every license there shall be paid to the Protector a fee of ten Rupees.

Form of license, and fee to be paid.

XXVIII. Every person holding a license as a Recruiter of laborers shall wear a badge bearing the following inscription in English, and in the vernacular language of the Town, District or Districts in which he is licensed to engage laborers—[*Recruiter of Emigrants for the Mauritius (or other place as the case may be)*].

Recruiter to wear badge.

XXIX. No Recruiter shall engage or attempt to engage laborers in any District or in the Towns of Calcutta, Madras or Bombay, without having first exhibited his license to the Magistrate of such District, or a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon. Such countersignature shall be given, provided that the license is in force at the time.

Recruiter to have his license countersigned by a Magistrate where he is recruiting.

XXX. Every Native of India, who shall in any place other than the Towns of Calcutta, Madras or Bombay enter into any engagement with a Recruiter to emigrate, shall prior to leaving the District within which the engagement was entered into appear with the Recruiter before the Magistrate of such District, and no Recruiter shall remove such Emigrant from the said District until he shall have so appeared. Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If the

Natives engaging to emigrate not to leave their district without appearing before Magistrate.

Examination and registration.

the Magistrate shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the Magistrate to the Emigrant registered.

Fee for registration

XXXI. For the registration of every Emigrant, the Recruiter shall pay to the Magistrate a fee of one Rupee. On proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Magistrate to the Recruiter by whom it was paid, under such Rules as shall from time to time be made in that behalf by the Governor-General of India in Council.

Copy of registration to be sent to Emigration Agent and Protector.

XXXII. Authentic copies of every registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named therein shall have been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

Registration of Emigrants recruited in Presidency Towns.

XXXIII. Every Native of India, who shall in the Towns of Calcutta, Madras or Bombay enter into any engagement with a Recruiter to emigrate, shall within forty-eight hours of making such engagement appear with the Recruiter before the Protector of Emigrants in such Town, and no Recruiter shall remove such Emigrant from the said Town, or to any emigration depôt, until he shall have so appeared. Upon his so appearing, the Protector of Emigrants shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, the name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If the Protector of Emigrants shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he

he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the Emigrant registered.

Fee for registration by Protector.

XXXIV. For the registration of every Emigrant under the last preceding Section, the Recruiter shall pay to the Protector of Emigrants a fee of one Rupee. On proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Protector to the Recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor-General of India in Council.

Copy of registration by Protector, to be forwarded to Agent.

XXXV. An authentic copy of every registration by a Protector of Emigrants shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein shall have been engaged.

Conveyance of Emigrant to depôt.

XXXVI. 1. Every Emigrant recruited under the provisions of this Act, shall be conveyed by land or river with all convenient despatch to the depôt at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to emigrate.

Emigrants shall be accompanied to depôt by Recruiter, or person approved by Magistrate.

2. The registered Emigrants engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants may have been registered. The Magistrate shall give to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depôt.

Recruiter to provide suitable food and lodging.

3. Every Recruiter by or through whom Emigrants may be forwarded to a depôt, shall throughout their journey provide them with suitable lodging and food.

Arrival at depôt to be reported to Emigration Agent, and to Protector.

XXXVII. The arrival of each Emigrant at a depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

XXXVIII. The

Copy of registration to be exhibited to Medical Inspector.

And Emigrants to be inspected by him

XXXVIII. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall as soon as conveniently may be after the arrival of the Emigrant be exhibited to the Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed. The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

If unable to proceed from bad health, or if irregularly recruited, Emigrant to be sent back to place where he was registered.

XXXIX. If the Medical Inspector shall certify that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed, or if any irregularity shall have occurred in the recruitment of any Emigrant, it shall be lawful for the Protector of Emigrants to order the Emigration Agent in whose depôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the laborer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the laborer to such place.

Provision for case of Emigration Agent failing to pay sum required to enable Emigrant to return.

XL. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum of money as in the last preceding Section mentioned, it shall be lawful for the Protector to pay the same to or on behalf of the Emigrant, and every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it may be paid, as money paid to the use of such Emigration Agent. No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the same, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith. Provided that any Emigrant who from his state of health is in the opinion of the Medical Inspector unfit to undertake the journey back to the place where he was registered, shall in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the depôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector shall otherwise order.

XLI. The

XLI. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each Emigrant at the depôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the depôt. The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid, examine the copy of the registration furnished to the Emigrant under Section XXX or Section XXXIII. If for any reason further enquiry be necessary, such enquiry shall be made forthwith. Unless the Emigration Agent shall with the consent of the Protector refuse to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy if it be a copy furnished under Section XXX shall be countersigned by both the Emigration Agent and the Protector, and if it be a copy furnished under Section XXXIII shall be countersigned by the Emigration Agent alone; and the copy so countersigned, under whichever Section it may have been furnished, shall be delivered back to the Emigrant. If the Emigration Agent shall, without the consent of the Protector, refuse to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the Emigrant to return to the place where he was registered, and on failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the Emigrant, and all the provisions of the last preceding Section as to sums paid by the Protector shall be applicable, so far as the circumstances of the case will permit, to sums paid by him under this Section. The Protector shall also, in every case in which it shall seem to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent. In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by and to be binding on the Emigration Agent.

Duty of Emigration Agent.

Provision for case of Agent refusing without consent of Protector to be bound by contract made by Recruiter.

XLII. After the examination in the last preceding Section provided, and if the Medical Inspector shall have given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a Pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the

After examination and Medical Inspector's certificate, Emigration Agent to grant a Pass.

the name and age of the Emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

Protector of Emigrants to attend personally at examination and passing of Emigrants.

And to countersign Pass.

XLIII. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under Sections XLI and XLII, and shall see that the Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make; and if such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the Pass granted by the Emigration Agent.

Emigrants refusing to embark, not to be compelled to embark.

Proviso.

XLIV. If any Emigrant shall without good and sufficient cause refuse or neglect to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark or to put him on board-ship against his will, or to detain him against his will at the depôt or elsewhere: but nothing in this Section shall be taken to diminish or affect in any way the legal liabilities, Civil or Criminal, of such Emigrant incurred by him by reason or in respect of his refusal or neglect aforesaid. Every case in which an Emigrant is charged before a Magistrate of a Presidency Town with refusing or neglecting to embark without good and sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such laborer shall, on conviction, be punished in the manner provided in Section CCCCXCII of the Indian Penal Code for the punishment of offences under that Section.

Time of sailing for places East of Cape of Good Hope.

For other places.

XLV. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration may be lawful under this Act, at all times of the year. For any such place West of the Cape of Good Hope, Emigrants may leave only between the thirty-first of July and the sixteenth of March, unless they embark in vessels using steam power, in which case they may leave at any time of the year.

Emigrant not to be received on board an unlicensed ship.

XLVI. 1. It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel shall have been obtained from the local Government, and the granting or withholding any such license shall be entirely discretionary with the local Government.

2. The

2. The Master or owner of any vessel who is desirous of obtaining a license to carry Emigrants in such vessel, shall apply in writing through the Protector of Emigrants to the local Government for such license.

Application for license.

3. Every application for a license shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

What to contain.

4. The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the requisite tackle for her voyage.

Survey of vessel.

5. The Protector of Emigrants shall make a full report on the survey to the local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

Report after survey, and certificate to Master.

6. In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of Emigrants and before any Emigrant shall embark on board of such vessel, execute in duplicate a bond, in such form as the local Government shall prescribe, binding himself and his owners in a penal sum of ten thousand Rupees to conform to the several conditions in this Act provided. It shall be the duty of the Protector of Emigrants to require the Master to execute such bond as aforesaid in duplicate, and to forward one copy of it to the Government of the place to which the Emigrants are to be carried, and the other copy of it to the local Government.

Bond to be executed by Master.

XLVII. 1. No certificate under the last preceding Section shall be granted, unless there shall be provided for the Emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

Space and accommodation required on board Emigrant ships.

2. No

2. No compartment shall take more than one adult Emigrant for every ten superficial feet on deck, and for every cubic space of seventy-two feet.

3. A distinct and separate place shall be fitted up for a hospital in every Emigrant Ship.

4. Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

5. An Emigrant above the age of ten years shall for the purposes of this Act count as an adult, and two children from one to ten years of age shall count as one adult.

Provisions, fuel and water to be shipped and taken.

XLVIII. 1. There shall be actually laden and on board of every vessel carrying Emigrants, at the time of the departure of such vessel from the port at which the Emigrants shall embark, in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor-General of India in Council under Section LXIII, good and wholesome provisions for the use and consumption of the said Emigrants, with fuel for cooking the same, over and above the victualling of the Captain, Officers and crew, and of the Cabin and other passengers, if any, and a supply of water, which shall be carried in tanks or casks to be approved by the Protectors of Emigrants, to the amount of seven gallons for every week of the computed voyage for every Emigrant on board such ship or vessel. When casks are used they shall be sweet and tight, of sufficient strength, and if of wood properly charred inside, and shall not be capable severally of containing more than three hundred gallons each: the staves of the water casks shall not be made of fir, pine or soft wood.

Surgeon, Medicines, and stores to be carried.

2. Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such Medicines and other stores in such quantity and of such quality as may be prescribed by any Rules made under Section LXIII.

Supply of water for vessel destined to call at intermediate port.

3. When any vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the probable voyage to such port or place of calling, shall be deemed to be a compliance with this Section. The probable length of the voyage to such port or place of calling shall be determined from

from time to time by the Protector of Emigrants, subject to the approval of the local Government.

Reduction of supply on vessel fitted with distilling apparatus.

4. When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this Section.

Protector and Inspector of Emigrants to ensure compliance with above provisions.

5 It shall be the duty of the Protector of Emigrants and of the Medical Inspector of Emigrants to see personally that all the provisions of this Section are complied with.

Protector of Emigrants to see that Emigrants are supplied with extra clothing at a certain season of the year.

XLIX. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the first day of March and the fifteenth day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage. Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the Tropics.

Master of vessel to obtain certificates from Protector of Emigrants and from Emigration Agent

L. Before any vessel licensed to carry Emigrants shall be cleared out from the port of Calcutta, Madras or Bombay, it shall be necessary for the Master of such vessel to obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say :—that such Protector and Emigration Agent have, in respect of the Emigrant's proceeding in such vessel, done all which is hereinbefore by this Act required to be done on the part of such Protector and Emigration Agent respectively ; and that all the directions contained in this Act, for ensuring the health, comfort, and safety of the Emigrants, have been duly complied with, as well as all such rules as the Governor-General of India in Council shall from time to time frame under Section LXIII.

Emigrant unfit to undertake voyage not to be allowed to embark.

LI. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every Emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labor

by

by old age, bodily infirmity, or disease. If the Protector of Emigrants shall be of opinion that any Emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the Protector shall refuse to permit the embarkation of such Emigrant. The Protector of Emigrants shall also, before the embarkation of any Emigrant, ascertain that such Emigrant has in his possession the copy of the registration provided under Section XXX or Section XXXIII. If it shall appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost the copy of the registration aforesaid, the Protector may furnish such Emigrant with a copy of such registration to be made from the copy received by the Protector from the Magistrate under Section XXXII, or from the Register kept by himself under Section XXXIII, and shall thereupon allow such Emigrant to embark.

Provisions of Act to be explained to all Emigrants.

LII. The provisions of this Act so far as they are likely more immediately to affect them, shall be explained in a general manner by the Protector of Emigrants to all Emigrants prior to their embarkation.

Procedure on Embarkation of Emigrants.

LIII. 1. When any Emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, specifying, as accurately as may be, the names, ages and occupations, and the names of the fathers, of the Emigrants about to embark on board such vessel.

Emigrant to give his Pass to Master.

2. On embarkation, every Emigrant shall deliver to the Master of the vessel the Pass granted to him under Section XLII; and it shall not be lawful for the Master to receive any Emigrant on board unless he delivers up such Pass. The Master shall compare the Emigrants who embark and the Passes delivered by them, with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the Passes delivered and with the Emigrants embarked, the Master shall sign the five copies of the list.

Protector to be personally present.

3. It shall be the duty of the Protector of Emigrants to be personally present at the embarkation of all Emigrants, and to see that the Master duly compares the list with the Passes and Emigrants, and he shall himself also compare the list with the Passes and Emigrants.

4. When

4. When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sign such copies if he believes them to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filed in the Office of the Protector of Emigrants.

One copy of list of Emigrants given to Protector, to be signed and returned to Master.

5. The Protector of Emigrants shall not permit any Emigrant to remain on board who has not a Pass, or is not mentioned in the list aforesaid.

Emigrant not having Pass not to be allowed to remain on board.

6. Every Pass delivered up to the Master of a vessel under this Section shall be returned by him to the Emigrant by whom the same was delivered up, prior to such Emigrant disembarking on the arrival of the vessel at her place of destination.

Pass to be returned to Emigrant on arrival at place of destination.

LIV. The Master of every vessel carrying Emigrants shall, after the embarkation of the Emigrants and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out two others of the five copies of the list of Emigrants mentioned in the last preceding Section, duly signed by the Master. The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination, and previous to the disembarkation of any Emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper Officer, at such place.

Copy of list of Emigrants to be signed by Emigration Agent, and returned to Master.

And by him to be delivered at place of destination.

LV. Whenever a vessel carrying Emigrants shall have cleared and shall be proceeding to Sea, the Officer of Customs or the Pilot, whichever of these Officers shall remain last on board of the vessel, shall as shortly as conveniently can be before his leaving the vessel, make a muster of the crew and passengers and Emigrants. Such Officer of Customs or Pilot shall use as a muster-roll a copy of the list signed by the Master and by the Protector of Emigrants under Section LIII, which copy shall be furnished to him by the Master; and after the muster he shall sign such muster-roll, noting upon it such discrepancies (if any) as he may have observed.

Muster of crew and passengers and Emigrants.

LVI. Every

LVI. Every Officer of Customs and Pilot who shall make a muster under the last preceding Section, shall make a declaration, stating according to the best of his belief that no additional Emigrant has been received on board since the list was signed by the Protector, and that nothing else has been done or omitted to be done in the vessel contrary to the provisions of this Act. Every such muster-roll and declaration shall be transmitted without delay to the Protector of Emigrants at the port of embarkation.

Declaration by Customs Officer or Pilot.

LVII. It shall be the duty of the Protector of Emigrants on the receipt of the muster-roll furnished by the Officer of Customs or Pilot under the last preceding Section, carefully to compare the same with the list signed by the Master filed in the Office of the Protector, and to report any discrepancy to the local Government.

Duty of Protector of Emigrants on receipt of list from Customs Officer or Pilot.

LVIII. The Protector of Emigrants shall, by every vessel which carries Emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the Emigrants embark, a correct and detailed list of all Emigrants embarked in such vessel, compiled from the Passes of the Emigrants, and from the list signed by the Master as aforesaid.

Protector shall send to Government of place to which Emigrants are going, a list of Emigrants on board each vessel.

LIX. The Master of every vessel carrying Emigrants from the Port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked.

Vessels sailing from Calcutta to depart within twenty-four hours of embarking Emigrants.

LX. Every vessel sailing from the port of Calcutta with Emigrants shall proceed from Garden Reach to Sea under tow of a competent Steamer.

Vessels sailing from Calcutta to be towed to Sea by Steamer.

LXI. Two copies of this Act and of all Rules made by the Governor-General of India in Council under Section LXIII, and two copies of a translation of this Act and of such Rules, in such language or languages as the local Government may direct, shall be delivered to the Master of every vessel carrying Emigrants by the Emigration Agent at the time of clearance, and shall be kept on

Copies of Act and Rules to be kept on board every vessel carrying Emigrants.

on board of every such vessel during the whole voyage, and one of such copies or translations shall, upon request made at all reasonable times to the Master of the vessel, be produced to any Emigrant or passenger for his perusal.

In case of sickness, Emigrants for Seychelles may be taken to Quarantine Station of Mauritius.

LXII. In case of sickness breaking out on board of any vessel conveying Emigrants to the British Dependency of Seychelles, such Emigrants may be taken to the Quarantine Station of the Island of Mauritius, and in such case such Emigrants may, at their option, contract for service at the said Island of Mauritius, or may proceed to the said Dependency of Seychelles; and if they shall elect to contract for service in the Island of Mauritius, such Emigrants shall then be regarded and treated, in all respects, as if they had emigrated to the said Island under the provisions of this Act.

Power of the Governor-General in Council to make Rules.

LXIII. It shall be lawful for the Governor-General of India in Council from time to time to make Rules, and to repeal, alter, and amend the same, not inconsistent with the provisions of this Act,—

1. To regulate the proportion of women to be taken with Emigrants, and the age below or above which children shall not be taken;

2. To prescribe the description, quantity and quality of provisions to be taken by vessels carrying Emigrants, the daily allowance of food and water to be issued to each Emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the Emigrants;

3. To provide for the Medical care of Emigrants during their residence at the depôts and on their voyages;

4. To prescribe the nature, quality and quantity of Medical drugs and other stores to be carried on board such vessels;

5. To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

6. To provide for a Journal being kept by the Surgeon of every such vessel, of the health of the Emigrants, and of his treatment of the sick, together with full explanations of the causes of every death;

7. And

7. And generally to provide for the security, well-being and protection of Emigrants.

All such Rules shall be published in the Gazette of India and shall have the same force and effect as if they were contained in this Act.

Governor-General in Council may prohibit emigration of Native laborers to any place to which emigration is allowed.

LXIV. Whenever the Governor-General of India in Council shall have reason to believe, that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage, it shall be lawful for the said Governor-General of India in Council, by notification published in the Gazette of India, to declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

Emigration to place mentioned to be suspended from the day specified in the notification.

LXV. After any notification shall have been published under the last preceding Section, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification: but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

During such suspension, all the laws against emigration shall be in force as to the place specified in the notification.

LXVI. During the time of such suspension, any provisions of this or of any other Act in force for the time being, prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labor to be performed by any Native of India out of the British Territories in India, shall take effect and be in force so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

Revocation of suspension.

LXVII. Whenever the Governor-General of India in Council shall be satisfied that, in the place specified in any notification under Section LXIV, proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return passages to India for such Emigrants at or about

about the time at which they are entitled to such return passages, it shall be lawful for the said Governor-General of India in Council to notify in the Gazette of India that emigration to such place shall again be allowed from a day to be specified in such notification; and thereupon all the provisions of this or any other Act in force for the time being authorizing emigration to such place shall, from the day so specified, be revived and have the same force and effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such supension.

Fees received are to be accounted for to Government.

LXVIII. All fees received by any Magistrate, Protector of Emigrants, or other Officer under this Act, shall be accounted for to Government in such manner as the Governor-General of India in Council may direct.

Penalty for making unlawful contract of labor.

LXIX. Whoever shall, except under and in conformity with the provisions of this Act, make any contract with any Native of India for labor to be performed in any place beyond British India to which emigration is not authorized under this Act, or under the said Acts XLVI of 1860 and VII of 1862, shall be deemed to have committed the offence specified in Section 363 of the Indian Penal Code: and whoever shall knowingly enable or assist any Native of India to emigrate to any such place, or aid in or abet the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

Penalty for recruiting without being licensed.

LXX. Whoever not being a Recruiter duly licensed under this Act, shall act or be employed as a Recruiter of laborers, or shall contrary to the provisions of this Act enter into any contract with a Native of India for labor to be performed by such Native of India in any place beyond British India (whether emigration to such place is or is not authorized under this Act, or under the said Acts XLVI of 1860 and VII of 1862), shall be liable to a fine not exceeding five hundred Rupees.

Penalty for Recruiter failing to take the laborers he has engaged before the Magistrate of the District, or the Protector of Emigrants.

LXXI. Whoever being a duly licensed Recruiter, shall remove any Emigrant whom he may engage in any District or place other than the Towns of Calcutta, Madras, or Bombay, from such District or place, without such Emigrant having appeared along with the Recuiter before the Magistrate of the District in order that such person might be examined and registered

registered; and whoever shall remove any Emigrant whom he may engage in any one of the Towns of Calcutta, Madras, or Bombay, from such Town, or to an Emigration depôt, without such Emigrant having appeared with the Recuiter before the Protector of Emigrants in order that such person might be examined and registered; and whoever shall by means of intoxication, violence, fraud, or false pretences induce any Native of India to enter into a contract for labor to be performed by him in any place to which emigration shall be lawful under this Act, or to proceed to any such place without having entered into any contract; and whoever shall fail to supply any Emigrant whom he shall have engaged, and who shall be registered, with suitable food, or shall otherwise ill treat such Emigrant on his journey to the depôt; and whoever shall forward, send, or convey any such Emigrant otherwise than is provided in Section XXXVI, or to any house or place in or near the Towns of Calcutta, Madras, or Bombay respectively, other than the depôt for the Emigrants for the place at which such Emigrant shall have contracted to labor—shall be liable to a fine not exceeding five hundred Rupees.

For inducing laborer to contract by fraud, &c.

For not supplying proper food, &c.

And for not taking the laborer to the depôt for the place at which he has contracted to labor.

LXXII. Whoever being a duly licensed Recruiter, shall forward or send any Emigrant from the District or Town in which he has entered into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of Sections XXX and XXXIII; and whoever being a duly licensed Recruiter, shall induce or knowingly permit any such Emigrant to leave such District or Town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid—shall be liable to a fine not exceeding five hundred Rupees.

Penalty for forwarding laborers, or allowing them to go, without being duly registered.

LXXIII. Whoever without lawful authority, shall issue any written perwannah or order to the Police to assist himself or any other person to procure laborers to proceed to any place beyond British India, or shall falsely represent that such laborers are required by the Government or are to be engaged on behalf of Government, shall be liable to a fine not exceeding five hundred Rupees.

Penalty for false representation of Government authority.

LXXIV. If the Master of any vessel which shall not have been licensed as provided in Section XLVI, shall knowingly receive any Emigrant on board in order to convey such Emigrant

Penalty for receiving Emigrants in an unlicensed vessel.

Emigrant to any place contrary to the provisions of this Act, such Master of such vessel shall be liable to simple or rigorous imprisonment for a period not exceeding one year, and also to a fine not exceeding one thousand Rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.

Penalty for clearing ship without complying with rules.

LXXV. If the Master of any vessel shall, at the port of Calcutta, the port of Madras, or the port of Bombay, clear such vessel for any place to which emigration shall be lawful under this Act and take on board any Emigrant without having fully complied with every particular required in Sections XLVIII and L, he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board.

Penalty for taking on board after clearance, Emigrants not entered in list.

LXXVI. If the Master of any vessel shall, after having cleared such vessel for any place to which emigration shall be lawful under this Act, take on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in Sections LIII and LIV, and in the manner in those Sections prescribed, he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board his vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

LXXVII. If the Master of any vessel cleared for any place to which emigration shall be lawful under this Act, shall after having obtained a certificate in accordance with the provisions of Section XLVI fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the vessel, or other matter to which such certificate relates, such Master shall be liable to a fine not exceeding five thousand Rupees, besides incurring a forfeiture of any bond executed in consideration of any license obtained for the vessel as originally described.

Penalty for proceeding to Sea without steam.

LXXVIII. If the Master of a vessel sailing from the port of Calcutta, licensed under Section XLVI and sailing with Emigrants on board, shall without reasonable excuse cause or allow his vessel to proceed from Garden Reach to Sea, or to proceed any part of the distance between Garden Reach and Sea, without his vessel being under tow of a competent Steamer, or if such vessel shall not have left Garden Reach and proceeded on her voyage within the time prescribed in Section LIX,

the

the Master of such vessel shall be liable to a fine not exceeding one thousand Rupees.

Customs Officers and Pilots may search and detain for purposes of this Act.

LXXIX. All the powers vested by law in the Officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration shall be lawful under this Act, and of other offences against this Act; and all Pilots in the service of or licensed by Government are hereby vested with the same powers and charged with the same duties as Officers of Customs in this behalf.

Penalty for false report by Customs Officer or Pilot.

LXXX. Any Officer of Customs or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrants on board of any vessel, or who shall connive at the unauthorized embarkation of any Emigrants, shall be liable, besides dismissal, to a fine of five hundred Rupees.

Prosecutions under this Act where and how to be instituted.

LXXXI. All prosecutions under this Act shall be instituted, on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an Officer appointed for the purpose by the local Government, before a Magistrate of Police, or before the Magistrate of the District, according as they shall be instituted for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras, and Bombay. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Officer imposing the fine. When a warrant of distress is issued, the said Officer may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Officer imposing the fine, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Officer whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall

Levy of fines.

shall have been issued and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Officer imposing the fine, he shall, by warrant, commit the offender to jail, there to be imprisoned with or without hard labor, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount. The fine or any part thereof which remains unpaid may be levied at any time within six years after the passing of the order imposing it; and the death of the offender does not discharge from the liability any property which would after his death be legally liable for his debts.

Any person specially authorized may exercise the powers of the Magistrate of the District under this Act.

LXXXII. It shall be lawful for the local Government from time to time to authorize any person invested with the powers of a Magistrate as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to and conferred on the Magistrate of the District: and every person so authorized shall in all respects for the purposes of this Act be deemed to be included in the words "the Magistrate of the District."

This Act, except certain Sections, not to apply to emigration to the French Colonies.

LXXXIII. So much of Section VIII of Act XLVI of 1860 as enacts that a fee not exceeding one Rupee per Emigrant as may be regulated from time to time by the local Government shall be demandable in respect of every license in the said Section mentioned, is hereby repealed. Save as aforesaid, nothing in this Act shall be held to repeal the said Act XLVI of 1860, or Act VII of 1862; but Section XIX to Section XLI, both included, being provisions for regulating the recruitment of Native laborers which will have effect on the recruitment of laborers for British Colonies, shall, as provided in Section IV of the said Act XLVI of 1860, apply to emigration under the said Acts XLVI of 1860 and VII of 1862.

Commencement of Act.

LXXXIV. This Act shall come into operation on the first day of July 1864.

Act and Rules made under it not to apply to certain vessels.

LXXXV. Nothing in this Act or in any Rule to be made by the Governor-General of India in Council under Section LXIII, shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

SCHEDULE

SCHEDULE A.

Number and date of Acts.	Title.	Extent of Repeal.
Act XIV. 1839 ..	Relating to contracts for labour in British or Foreign Colonies.	The whole Act.
Act XV. 1842 .	For regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to the Island of Mauritius.	The whole Act.
Act XXI. 1843	For regulating the Emigration of Laborers from India to Mauritius.	The whole Act.
Act XXI. 1844 .	For regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to Jamaica, British Guiana, and Trinidad.	The whole Act.
Act XXV. 1845 ..	For regulating the time of sailing of ships carrying Emigrants from Madras to Jamaica, British Guiana, and Trinidad.	The whole Act.
Act VIII. 1847 .	For rendering lawful the Emigration of Laborers from the Port of Madras, in the Presidency of Fort St. George to Mauritius.	The whole Act.
Act XIII. 1847 ...	For repealing Act XIV of 1839, so far as it relates to the Emigration of Natives of India to the Island of Ceylon.	The whole Act.
Act IV. 1852 ...	To amend the law relating to Emigrant Vessels and the Emigration of Laborers.	The whole Act.
Act XXIV. 1852 ..	For amending and explaining Act XIV. 1839, and for the better prevention of crimping.	The whole Act.
Act XXXI. 1855 ..	Relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada.	The whole Act.
Act XIX. 1856 .	To enable the Governor-General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers.	So much of the Act as is not incorporated in Acts XLVI of 1860 and VII of 1862.
Act XII. 1860 ..	Relating to the Emigration of Native Laborers to the British Colony of St. Vincent.	The whole Act.
Act XXXIII. 1860..	Relating to Emigration to the British Colony of Natal.	The whole Act.

Number

Number and date of Acts.	Title.	Extent of Repeal.
Act XLI. 1860	Relating to the Emigration of Native Laborers to the British Colony of Saint Kitts.	The whole Act.
Act XLIX. 1860 ...	Relating to vessels carrying Emigrant Passengers to the British Colonies.	The whole Act
Act XXII. 1862	Relating to Emigration to the British Colonial Dependency of Seychelles.	The whole Act.
Act VII. 1863	Relating to the Emigration of Native Laborers to the Danish Colony of Saint Croix.	The whole Act.

SCHEDULE B.

Office of the Protector of Emigrants at the Port of

A. B. is hereby licensed under Act XIII of 1864 of the Governor-General of India in Council to be a Recruiter for engaging persons to proceed to for the purpose of laboring for hire.

This license will be in force for one year only from this date.

Dated the day of

(Signed) C. D.,

Protector of Emigrants.

ACT No. XIV of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th March 1864.)

An Act to give validity to certain acts and proceedings of the Joint Judge of the Konkan.

Preamble.

WHEREAS the Government of Bombay is empowered under Act XXIX of 1845 to appoint, with the consent of the Governor-General of India in Council, a Joint Judge and a Joint Sessions Judge in any Zillah of the Bombay Presidency, whenever the state of judicial business shall render such appointment expedient: and whereas on the twenty-fifth day of February 1863 the Government of Bombay appointed a Joint Judge and Joint Sessions Judge of the Zillah of the Konkan, and did not obtain the consent of the Governor-General of India in Council until the eleventh day of July 1863: and whereas the High Court of Bombay has held that the consent of the Governor-General of India in Council alluded to in Act XXIX of 1845, signifies the previous consent, and it is therefore necessary to give legal validity to all orders and decisions passed and all proceedings held by any Officer exercising the powers of Joint Judge and Joint Sessions Judge of the Konkan between the twenty-fifth day of February 1863 and the eleventh day of July 1863: It is enacted as follows:—

Sanction given by Governor-General to appointment of Joint Judge of the Konkan to have effect as if given before the twenty-fifth of February 1863.

I. The consent granted by the Governor-General of India in Council on the eleventh day of July 1863 to the appointment by the Government of Bombay of a Joint Judge and Joint Sessions Judge of the Konkan, shall have the same effect as if it had been granted before the twenty-fifth day of February 1863, and no order or decision passed and no proceeding held in any Civil or Criminal case by any Officer appointed to the said office of Joint Judge and Joint Sessions Judge of the Konkan on or after the said twenty-fifth day of February 1863 and before the said eleventh day of July 1863, shall be deemed to be invalid merely by reason of such order or decision having been passed or such proceeding having been held without the consent of the Governor-General of India in Council to the appointment of Joint Judge or Joint Sessions Judge of the Konkan having been previously given.

PRICE 3 PIES.

ACT No. XV of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1864).

An Act to amend Act VIII of 1851 *(for enabling Government to levy Tolls on Public Roads and Bridges).*

Preamble.

WHEREAS by Act VIII of 1851 (*for enabling Government to levy Tolls on Public Roads and Bridges*) authority was given for the levy of certain rates of Toll, not exceeding the rates mentioned in the Schedule annexed to that Act; and whereas it is expedient to make certain alterations in respect to the rates in the said Schedule mentioned; It is enacted as follows:—

Schedule of Act VIII of 1851 repealed, and another Schedule substituted.

I. In any place to which this Act shall be extended by the Local Government, the Schedule to the said Act VIII of 1851 shall be of no effect except as to any proceedings pending at the time at which this Act shall be so extended and except as to any rate of Toll levied theretofore: and all the provisions of the said Act, applicable or referring, to the rates of Toll mentioned in the said Schedule, shall be applicable and refer to the rates of Toll mentioned in the Schedule to this Act annexed, which shall be read with and taken as part of the said Act VIII of 1851.

Collectors of Tolls may compound for Tolls leviable under Act VIII of 1851 or this Act.

II. Any person entrusted with the management of the collection of Tolls under Act VIII of 1851, may in his discretion compound for any period not exceeding one year with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of Toll specified in the Schedule to the said Act VIII of 1851 or in the Schedule to this Act.

This Act where to have operation.

III. The local Government may extend this Act to any place in which the said Act VIII of 1851 is in force; and the local Government of any place in which the said Act VIII of 1851 is not in force may extend the said Act VIII of 1851 and this Act to such place.

IV, For

IV. For the purposes of this Act, the words "local Government" shall denote the person authorized by law to administer executive Government in any part of the territories vested in Her Majesty by the Statute 21 and 22 Vic, cap. 106, entitled "An Act for the better Government of India."

"Local Government."

SCHEDULE.

	Rs.	A.	P.
On every four-wheeled Carriage	2	0	0
On every two-wheeled Carriage	1	0	0
On every Ekka	0	4	0
On every hackery on springs	0	2	0
On every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses, or mules, if laden...	1	8	0
Ditto, if not laden	0	8	0
On every cart and hackery drawn by 6 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	0	12	0
Ditto, if not laden	0	6	0
On every cart or hackery drawn by 4 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	0	8	0
Ditto, if not laden	0	4	0
On every cart and hackery drawn by 2 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	0	4	0
Ditto, if not laden	0	2	0
Buffaloes or bullocks, per head, if laden...	0	1	0
Ditto, if not laden	0	0	6
On every elephant	1	8	0
On every camel, if laden	0	8	0
Ditto, if not laden	0	4	0
On every horse, if laden or ridden	0	1	6
Ditto, unladen or led	0	0	9
On every tattoo or mule, if laden or ridden	0	0	9
Ditto, unladen or led	0	0	6
On every ass, if laden or ridden	0	0	6
Ditto, unladen or led	0	0	3
On every sheep, or goat, or pig	0	0	1
On every palankeen, dooly, palna, or tonjon with 8 bearers	1	0	0
Ditto ... ... with 6 bearers	0	12	0
Ditto ... ... with 4 bearers	0	8	0
Ditto .. .. with 2 bearers	0	4	0
On every foot passenger	0	0	3

N. B.—Animals drawing any vehicle for which Toll can be demanded are not to be also charged with Toll.

REGISTRATION.

ARRANGEMENT OF SECTIONS.

Repeal of Regulations and Acts.

SECTION.

1. Laws repealed.

2. Repeal of rules relating to the Registration of Assurances in certain Territories.

Definitions.

3. Interpretation.

4. The Head Executive Officer of certain Territory may be vested with the powers conferred by this Act on local Governments.

Registration Establishment.

5. General Register Office.

6. Formation of Districts and Sub-Districts.

7. Establishment of Register Offices.

8. Appointment of District and Deputy Registrars.

9. Duties of District Registrar of a Presidency Town not divided into Sub-Districts.

10. Provision for cases of absence of Registrars or vacancy in the Office.

11. Salaries and establishments.

12. Seal of Office.

Instruments to be registered.

13. Certain Instruments not to be received in evidence in any Civil proceeding unless registered according to provisions of this Act.

Proviso.

14. Mode of determining the value of the right, title, or interest affected by Instruments required to be registered.

15. On refusal to register, regular suit may be brought to enforce registration.

16. Instruments whereof the registration is optional.

Time of Registration.

SECTION.

17. What Instruments not to be accepted unless presented for registration within twelve months after the coming into operation of this Act.

18. What Instruments not to be accepted unless presented for registration within four months after execution.

19. What Instruments not to be accepted unless presented for registration within two months after execution.

20. What Instruments may be registered at any time.

Place of Registration.

21. In what Office certain Instruments to be presented for registration.

22. In what Office other Instruments to be presented.

23. To what Officer Instruments affecting immoveable property situate in more than one Sub-District to be presented for registration.

24. To what Officer Instruments in language not understood by Deputy Registrar to be referred.

25. To what Officer Instruments affecting immoveable property situate in more than one District to be presented for registration.

26. Registration by Registrar General.

27. Proceedings in case of registration by Registrar General.

28. By whom Instruments, with certain exceptions, are to be presented for registration.

Mode of Registration.

29. Enquiry before registration by the District Registrar or Deputy Registrar.

30. Entries to be made as to persons examined.

31. Mode of enforcing attendance of person whose testimony is required by Deputy Registrar.

32. Application when to be made to District Registrar.

33. Mode of enforcing attendance of person whose evidence is required by a District Registrar or Registrar General.

34. Law relating to attendance of witnesses in suits in Civil Courts to apply to persons summoned as witnesses under this Act.

SECTION.

35. Erasures or interlineations in Instruments presented for registration.

36. Particulars to be endorsed on Instrument admitted to registration.

37. Endorsement by whom to be signed and how to be certified.

38. Registered Instrument to be copied and numbered.

39. And returned with a further endorsement.

40. The forwarding duplicate abstracts of certain Instruments registered in the Office of Deputy Registrar.

41. The forwarding abstracts of certain Instruments registered in the Office of the District Registrar.

42. Such abstracts to be entered in General Register Office.

Decrees affecting Registered Instruments.

43. In what cases Memorandum of decree affecting certain registered Instruments to be sent to the Office in which such Instrument shall have been registered.

44. Proceedings on receipt of such Memorandum.

45. To what Registrars Memorandum of decrees affecting immoveable property to be sent.

Registration of Wills, Codicils, and Authorities to adopt.

46. Mode of presenting for registration Wills, Codicils, and Instruments giving authority to adopt.

47. Such documents how to be entered.

48. Withdrawal of such documents.

49. Proceedings on death of depositor.
Re-deposit of such documents.

50. Copies of Wills re-deposited to be furnished on payment of fees.

Special Registration of obligations for payment of money.

51. Parties may have agreement recorded, that amount secured by a written obligation shall be recovered without suit.

52. Obligations for the payment of money registered with such agreement may be enforced without suit.

Registration Fees.

SECTION.

53. Fees to be charged for registration &c. how to be fixed.

54. Disposal of fees.

Registers

55. Books.
Forms.
Fire-proof boxes.

56. Four distinct Books.

57. In which book certain Instruments to be registered.

58. Indexes.

59. Registers of Wills &c.

60. Inspection of Registers and copies of entries.

General Rules.

61. Control of proceedings of Deputy Registrars.

62. Revision of orders of Deputy Registrars refusing registration.

63. No appeal from order admitting to registration.

64. General control by Registrar General.
Power to frame Rules.

65. Registration to be made at a Public Office.
Exception.

66. Reasons for refusal to register to be recorded by District Registrar or Deputy Registrar.

67. Time from which registered Instrument shall operate.

68. Priority of certain registered Instruments.

69. Registry of Instruments executed by, or on behalf of, Government.

70. False statements before any Officer acting under this Act how punishable.

71. Commencement of Act.

ACT No. XVI of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1864.)

An Act to provide for the Registration of Assurances.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the Registration of Assurances; It is enacted as follows :—

REPEAL OF REGULATIONS AND ACTS.

Laws repealed.

I. The Regulations and Acts and parts of Regulations and Acts set forth in the Schedule annexed to this Act are hereby repealed to the extent mentioned in the said Schedule, except in so far as such Regulations or Acts rescind other Regulations or Acts, and except as regards Instruments duly registered under them or any of them before the date on which this Act shall come into operation.

Repeal of rules relating to the Registration of Assurances in certain Territories.

II. From the date on which this Act shall be extended as hereinafter provided to any part of British India in which the Regulations and Acts mentioned in the Schedule annexed to this Act are not in force, all Rules and Regulations relating to the Registration of Assurances in force in such part of British India shall cease to have effect, except as regards Instruments duly registered under any of the said Rules or Regulations in such part of British India.

DEFINITIONS.

Interpretation.

III. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction—that is to say:—

"British India."

The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca:

The

PRICE 4 ANNAS 6 PIES.

"Local Government."

The words "Local Government" denote the person or persons authorized by law to administer the Executive Government in any part of British India:

"Year" and "month."

The words "year" and "month" denote a year or month respectively by the British Calendar:

"Section."

The word "Section" denotes a Section of this Act:

Number.

Words importing the singular number include the plural number; words importing the plural number include the singular number:

Gender.

Words importing the masculine gender include females.

The Head Executive Officer of certain Territory may be vested with the powers conferred by this Act on local Governments.

IV. It shall be lawful for the Governor-General of India in Council, by an order to be published in the Gazette of India, to declare that in any Territory under the immediate administration of the Government of India the Head Executive Officer of such Territory shall exercise the powers vested by this Act in the local Governments, and thereupon such Officer shall, for the purposes of this Act, be the local Government of such Territory as defined in this Act.

REGISTRATION ESTABLISHMENT.

General Register Office.

V. Every local Government shall establish within the Territories subject to such Government, at such place as to it shall seem fit, an Office to be called the General Register Office, and shall appoint an Officer to the charge of such Office, who shall be the Registrar General of the Territories for which he is appointed. Nothing in this Act contained shall make it unlawful for any Registrar General to hold simultaneously any other Office to which he may be appointed by the local Government.

Formation of Districts and Sub-Districts.

VI. For the purposes of this Act, the local Government shall form Districts and shall divide such Districts into Sub-Districts, and shall prescribe and from time to time may alter the limits of the Districts and Sub-Districts so formed.

The local Government shall also for the purposes of this Act prescribe the limits of the Presidency Towns of Calcutta, Madras, and Bombay respectively: and every such Town shall for the purposes of this Act be deemed a District.

The local Government may, if it shall think fit so to do, divide the said Presidency Towns respectively into Sub-Districts, and may from time to time alter the limits of the said Presidency Towns and of the said Sub-Districts thereof.

The

The Districts and Sub-Districts formed under this Section, together with the limits thereof, and every alteration of such limits, shall be forthwith notified by the local Government in the Official Gazette.

Establishment of Register Offices.

VII. The local Government shall establish in every District an Office to be styled the District Register Office, and in every Sub-District an Office to be styled the Deputy Register Office.

Appointment of District and Deputy Registrars.

VIII. The local Government may appoint such persons, whether Public Officers or not as it may think proper, to be District Registrars of the several Districts, and to be Deputy Registrars of the several Sub-Districts formed as aforesaid respectively: provided that, except in the said Presidency Towns of Calcutta, Madras, and Bombay, no person shall at the same time hold both the Office of District Registrar and the Office of Deputy Registrar.

Duties of District Registrar of a Presidency Town not divided into Sub-Districts.

IX. In each of the Presidency Towns aforesaid not for the time being divided into Sub-Districts, the District Registrar shall perform all the duties of a Deputy Registrar of a Sub-District under this Act in the same manner and subject to the same rules as if such Presidency Town were a Sub-District; provided that there shall be no appeal under Section LXII from his order.

Provision for cases of absence of Registrars or vacancy in the office.

X. In case of the absence of any Deputy Registrar, or of a vacancy occurring in the Office of any Deputy Registrar, it shall be lawful for the District Registrar to whom such Deputy Registrar is subordinate to appoint any person whom he may think proper to take temporary charge of the Office of such Deputy Registrar, and to register Instruments in the same manner as if such person had been appointed to the Office by the local Government. In case of the absence of any District Registrar, or of a vacancy occurring in the Office of any District Registrar, the Judge of the principal Court of original Civil jurisdiction of the District shall, during such absence or vacancy, be the District Registrar. In case of the absence of the District Registrar of a Presidency Town, or of a vacancy occurring in the Office of any such Registrar, it shall be lawful for the Registrar General of the Presidency, or place, to appoint any person whom he may think proper to take temporary charge of the Office of such Registrar.

Salaries and establishments.

XI. It shall be lawful for the local Government, with the sanction of the Governor-General of India in Council, to assign such salaries as such local Government may from time to time deem proper, to the Registrar General, the District Registrars, and the Deputy Registrars appointed

appointed under this Act, or to provide for the remuneration of such Officers by fees, or partly by fees and partly by salaries. It shall also be lawful for the local Government, with the like sanction, to allow such Establishments for the General Register Office and for the Offices of the several District Registrars and Deputy Registrars as may be necessary for the purposes of this Act.

Seal of Office.

XII. The Registrar General and the several District Registrars and Deputy Registrars shall use a seal bearing the following inscription in English and in such other language as the local Government shall direct: "The Seal of the Registrar General *(or of the District Registrar, or Deputy Registrar)* of ."

INSTRUMENTS TO BE REGISTERED.

Certain Instruments not to be received in evidence in any Civil proceeding unless registered according to provisions of this Act.

XIII. No Instrument being a deed of gift of immoveable property, no lease of immoveable property for any period exceeding one year, no Instrument (other than a deed of gift or lease as aforesaid) which purports or operates to create, declare, transfer, or extinguish any right, title, or interest of the value of one hundred Rupees or upwards in any immoveable property, and no Instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest as above, of such value as aforesaid, in any immoveable property, shall be received in evidence in any Civil proceeding in any Court, or shall be acted on by any Public Officer, if such Instrument shall have been executed on or after the date on which this Act shall come into operation, and if the property to which such instrument relates shall be situate in any part of British India in which this Act is in force, unless the same shall have been registered in the manner and within the time prescribed by this Act. Provided that the provisions of this Section shall not apply to any lease executed between landlord and tenant relative to land in the Presidency of Madras liable to the payment of revenue to Government, but any such lease may be registered under Section XVI, subject to the provisions of Sections XVII and XIX.

Proviso.

Mode of determining the value of the right, title, or interest affected by Instruments required to be registered.

XIV. For the purposes of this Act, the value of the right, title, or interest in any immoveable property created, declared, transferred, or extinguished by any Instrument shall be taken to be the value indicated by the Stamp affixed thereto or impressed thereon under Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*), or under any other Act for the time being in force for regulating the Stamp Duties.

XV. If

XV. If a District Registrar or Deputy Registrar shall refuse to register an Instrument falling within the provisions of Section XIII, it shall be lawful for any person interested to institute a regular suit in order to establish his right to have such Instrument registered, and the Instrument shall be admissible in evidence for the purposes of such suit. The District Registrar or Deputy Registrar who refused to register such Instrument shall not be made a party to any such suit, but the Court may if it shall think proper order such District Registrar or Deputy Registrar to register the Instrument, and he shall be bound to comply with the order. The petition of plaint in any suit instituted under this Section shall be written on paper bearing a stamp of the value of eight annas.

On refusal to register, regular suit may be brought to enforce registration

XVI. On and after the date on which this Act shall come into operation, any of the following Instruments executed on or after the said date may be registered under this Act:—

Instruments whereof the registration is optional.

1. Any Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest of value less than one hundred Rupees, in any immoveable property.

2. Any Instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest, of such value as aforesaid, in any such immoveable property.

3. Any lease for a period not exceeding one year.

4. Any Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest in any moveable property.

5. Any Will, Codicil, or Authority to adopt a son.

6. Any decree or order of Court or private award of arbitration.

7. Any Deed, Bond, Contract, or other Obligation.

TIME OF REGISTRATION.

XVII. No Instrument of the descriptions mentioned in Sections XIII and XVI (other than a Will, Codicil to a Will, or Authority to adopt a son), which shall have been executed before the date on which this Act shall come into operation, shall be accepted for registration unless such Instrument be presented for registration within twelve months from such date.

What Instruments not to be accepted unless presented for registration within twelve months after the coming into operation of this Act.

XVIII. No

What Instruments not to be accepted unless presented for registration within four months after execution.

XVIII. No Instrument of the descriptions mentioned in Section XIII, which shall have been executed after the date on which this Act shall come into operation, shall be accepted for registration unless presented for that purpose to the proper Officer within four months from the date of the execution thereof.

What Instruments not to be accepted unless presented for registration within two months after execution.

XIX. No Instrument of any of the descriptions mentioned in Section XVI (other than a Will, Codicil to a Will, or Authority to adopt a son), which shall be executed after the date on which this Act shall come into operation, shall be accepted for registration unless presented within two months from the date of the execution thereof.

What Instruments may be registered at any time.

XX. Any Will, Codicil to a Will, or Authority to adopt a son may at any time be registered in the manner hereinafter provided, by the person making such Will or Codicil, or giving such Authority.

PLACE OF REGISTRATION.

In what Office certain Instruments to be presented for registration.

XXI. Save as in this Act otherwise provided, every Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest in any immoveable property, and any Instrument acknowledging the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest in any immoveable property, or any lease, shall be presented for registration in the Office of the Deputy Registrar within whose Sub-District the property is situate.

In what Office other Instruments to be presented.

XXII. Every Instrument other than an Instrument of the nature specified in the last preceding Section, shall be presented for registration in the Office of the Deputy Registrar within whose jurisdiction such Instrument is executed, or at any Registry Office under the same local Government, at which all the parties executing such Instrument shall desire the same to be registered.

To what Officer Instruments affecting immoveable property situate in more than one Sub-District to be presented for registration.

XXIII. Every Instrument affecting immoveable property the whole of which, although situate in one District, is not situate in one Sub-District, may be presented for registration to any Deputy Registrar within whose Sub-District any part of such property is situate. It shall be the duty of such Deputy Registrar, after registering the Instrument, forthwith to cause to be made and to forward a copy thereof, endorsed in the manner provided in Section XXV, to the District Registrar

to

to whom he is subordinate, who shall register the same, and forward a copy of such Instrument and of the endorsement aforesaid, to every Deputy Registrar in his District in whose Sub-District any part of such property is situate, other than the Deputy Registrar in whose Office the Instrument shall have been originally registered, and every Deputy Registrar who shall receive such copy shall forthwith register the same.

To what Officer Instruments in language not understood by Deputy Registrar to be referred.

XXIV. If any Instrument tendered for registration be in a language which the Deputy Registrar does not understand, the Deputy Registrar shall refuse to register the Instrument, and shall refer the parties to the District Registrar, who shall deal with the Instrument in the same manner as he is required by this Act to deal with Instruments presented to him in the first instance for registration.

To what Officer Instruments affecting immoveable property situate in more than one District to be presented for registration.

XXV. Every Instrument affecting immoveable property situate in more Districts than one, may be presented for registration to the District Registrar of any such District in which any part of such property is situate. It shall be the duty of such District Registrar, after registering the Instrument, to cause to be made and to forward to the District Registrar of every District in which any other part of such property is situate, a copy of such Instrument, endorsed with an attestation stating the date on which it was registered and its number in his Register Book. The District Registrar receiving such copy so forwarded and endorsed shall register the same as if it had been presented to him in the first instance, and shall forward a copy of such instrument and of such endorsement as aforesaid to the Deputy Registrar of each Sub-District within the local limits of his jurisdiction in which any part of such property is situate, and every Deputy Registrar who shall receive such last mentioned copy shall forthwith register the same.

Registration by Registrar General.

XXVI. It shall be lawful for the Registrar General in his discretion to receive and register any Instrument of the nature specified in Section XXI, which may be presented at his Office for registration, without reference to the situation of the property to which the Instrument relates. In registering any Instrument under this Section, the Registrar General shall follow the mode of registration hereinafter prescribed for the registration of Instruments presented in the first instance to a District Registrar or a Deputy Registrar.

Proceedings in case of registration by Registrar General.

XXVII. It shall be the duty of the Registrar General, on any such Instrument being registered in his Office under the last preceding Section, to cause to be made and forwarded to every District Registrar within the local limits of whose jurisdiction any part

part of the property to which the Instrument relates is situated, a copy of such Instrument endorsed with an attestation stating the date on which it was registered and the number in his Register Book: and the District Registrar receiving such copy shall register the same as if it had been presented to him in the first instance, and shall forward a copy thereof and of the endorsement aforesaid to the Deputy Registrar of each Sub-District within his jurisdiction in which any part of such property is situate, and every Deputy Registrar who shall receive such copy shall register the same.

By whom Instruments, with certain exceptions, are to be presented for registration.

XXVIII. Every Instrument to be registered under this Act, not being a Will, Codicil to a Will, or an Authority to adopt a son, shall be presented at the Office in which such Instrument is to be registered by all the parties executing the same, or by the heirs, representatives, or assigns of such parties, or by the authorized agents of such parties, or of their heirs, representatives, or assigns under a power of attorney special or general. But no such power of attorney shall be recognized for the purposes of this Act unless it shall have been executed in the presence of, and duly attested by, the District Registrar or Deputy Registrar within the local limits of whose jurisdiction the person executing the same resides if he reside in any part of British India subject to the operation of this Act, or if he reside in a part of British India not subject to the operation of this Act, unless it shall have been executed in the presence of, and been duly attested by, the Officer presiding over the principal Court of original Civil jurisdiction within the local limits of whose jurisdiction the person executing the same resides. If the person executing such power of attorney do not reside within any part of British India, it shall not be recognised for the purposes of this Act unless it shall have been executed in the presence of, and duly attested by, an Officer of the British Government, or by a Notary Public where there is such a functionary. The provisions contained in this Section relating to the execution of powers of attorney in the presence of the District Registrar or Deputy Registrar, shall not apply in the case of a Native woman of a rank or description, which according to the customs of the country would render it improper to require her personally to attend at the Office of the District Registrar or Deputy Registrar. In the case of any woman of the rank or description above mentioned, the District Registrar or Deputy Registrar, if satisfied that the power of attorney is the free and voluntary act of the woman by whom it purports to have been made, may attest the same without requiring her personal attendance at his Office. For the purpose of satisfying himself on this point, the District Registrar or Deputy Registrar may proceed or depute some trustworthy person to the residence of the woman

to

to take her examination in the mode prescribed for taking the evidence of Native females of rank.

MODE OF REGISTRATION.

Enquiry before registration by the District Registrar, or Deputy Registrar.

XXIX. On the parties to any Instrument, their heirs, administrators, or assigns, or the agents of such parties authorized as hereinbefore provided appearing before the District Registrar or Deputy Registrar for the purpose of obtaining the registration of such Instrument, he shall proceed to enquire whether such Instrument was executed or not by all the parties thereto by whom it purports to have been executed, and to satisfy himself of the right of any person to appear as the heir, administrator, or assign of any party whom he shall claim to represent, or if any party shall appear by agent, of the authority of such agent. If all the parties executing the Instrument appear personally before the District Registrar or Deputy Registrar and are personally known to him, or in case they are not personally known to him if they satisfy him that they are the parties they represent themselves to be, and if they all admit the execution of the Instrument, or in the case of any party appearing by authorized agent if such agent shall admit the execution of the Instrument, the District Registrar or Deputy Registrar shall register the same.

Entries to be made as to persons examined.

XXX. The District Registrar or Deputy Registrar shall enter in the Register Book the name and address in full of every person whom he may examine as to any of the matters in the last preceding Section mentioned.

Mode of enforcing attendance of person whose testimony is required by Deputy Registrar.

XXXI. If any party to an Instrument shall require assistance to procure the attendance of a person whose testimony is necessary for the registration of such Instrument by a Deputy Registrar, such Deputy Registrar may in his discretion, and if such person shall be within the local limits of the jurisdiction of such Deputy Registrar, issue a summons requiring such person to attend at the Office of such Deputy Registrar at a time named in such summons.

Application when to be made to District Registrar.

XXXII. If the person whose attendance is required is not within the local limits of the jurisdiction of the Deputy Registrar, the party to the Instrument who requires his attendance shall apply through the Deputy Registrar to the District Registrar in whose District such person is, and the District Registrar may in his discretion issue a like summons for the attendance of such person at the Office of such Deputy Registrar.

XXXIII. The

Mode of enforcing attendance of persoy whose evidence is required by a District Registrar or Registrar General.

XXXIII. The provisions of the last two preceding Sections shall apply *mutatis mutandis* to all cases in which a party executing an Instrument shall require assistance to procure the attendance of a person whose testimony is necessary for the registration of such Instrument by a District Registrar or by a Registrar General.

Law relating to attendance of witnesses in suits in Civil Courts to apply to persons summoned as witnesses under this Act.

XXXIV. The provisions of the Acts in force for the time being for procuring the attendance of witnesses, for the examination, remuneration, and punishment of witnesses in suits before Civil Courts, shall be of equal force and effect in respect of any person summoned to appear as a witness under the foregoing provisions of this Act.

Erasures or interlineations in Instruments presented for registration.

XXXV. No Instrument shall be accepted for registration if any interlineation, erasure, or alteration shall appear on such Instrument, unless the parties appearing to register the same shall attest with their signatures such interlineation, erasure, or alteration ; and it shall be the duty of the Officer registering such Instrument, at the time of registering it, to make a note in the Register of such interlineation, erasure, or alteration.

Particulars to be endorsed on Instrument admitted to registration.

XXXVI. On every Instrument admitted to registration there shall be endorsed the following particulars,—that is to say—

1. The date and hour of presentment.

2. The names in full of the parties executing the Instrument: and if i shall have been presented by the heir, representative, or assign, or by the agent of any party, the name of such heir, representative, assign or agent.

3. The name and address in full of every person whose evidence may have been taken under any of the provisions of this Act.

4. Any payment of money or delivery of goods made in the presence of the District Registrar or Deputy Registrar.

Endorsement by whom to be signed and how to be certified.

XXXVII. The endorsement shall be signed by every party executing the Instrument, or by his heir, representative, or assign, or by his agent, and shall be certified by the seal and signature of the District Registrar or Deputy Registrar. The Instrument thus endorsed shall be *primâ facie* proof on the production thereof in any Court that such Instrument has been duly registered in the manner provided in this Act. Provided that it shall be competent to the Court to require further evidence of such registration if it shall see sufficient cause for doing so.

XXXVIII. Every

Registered Instrument to be copied and numbered.

XXXVIII. Every Instrument admitted to registration and endorsed as hereinbefore provided, shall be copied in its appropriate book according to the order of its presentation, and shall be numbered accordingly.

And returned with a further endorsement.

XXXIX. After the provisions of Sections XXXVI, XXXVII, and XXXVIII shall have been complied with, the Instrument shall be returned to the party who shall have presented the same for registration, with a further endorsement inscribed thereon and certified as above, containing the number and page of the book in which the copy and the registration of the Instrument shall have been made.

The forwarding duplicate abstracts of certain Instruments registered in the Office of Deputy Registrar.

XL. An abstract of every original Instrument affecting immoveable property registered in the Office of any Deputy Registrar, shall with an endorsement attesting the date on which it was registered and its number in the Register Book of such Deputy Registrar, within seven days be forwarded in duplicate to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office.

The forwarding abstracts of certain Instruments registered in the Office of the District Registrar.

XLI. An abstract of every original Instrument affecting immoveable property registered in the Office of any District Registrar, shall with an endorsement attesting the date on which it was registered and its number in the Register Book of such District Registrar, within seven days be forwarded to the General Register Office.

Such abstracts to be entered in General Register Office.

XLII. On the receipt in the General Register Office, of the abstract of any entry made in any Register, the same shall be entered in the Book No. 1, 2, 3, or 4, described in Section LVI of this Act, as the case may be.

DECREES AFFECTING REGISTERED INSTRUMENTS.

In what cases Memorandum of decree affecting certain registered Instruments to be sent to the Office in which such Instrument shall have been registered.

XLIII. When any Civil Court shall by a decree or order declare any Instrument relating to immoveable property which shall have been registered under this Act to be invalid, or when any Civil Court shall pass a decree or order affecting the validity or otherwise of any such Instrument, and such last mentioned decree or order shall create, declare, transfer, limit, or extinguish any right, title, or interest under such Instrument in the immoveable property to which it relates, such Court shall cause a Memorandum of the decree or order to be sent to the Office in which such Instrument shall have been originally registered.

XLIV. Whenever

Proceedings on receipt of such Memorandum.

XLIV. Whenever any Memorandum is received under the last preceding Section, a transcript thereof shall immediately be made in the margin of the part of the book in which there is any register of the Instrument affected by such Memorandum: and the District Registrar or Deputy Registrar shall forthwith transmit a copy of such Memorandum to the Registrar General, and to every District Registrar and every Deputy Registrar in whose Office the said Instrument or any abstract thereof is registered.

To what Registrars Memorandum of decrees affecting immoveable property to be sent.

XLV. When any Civil Court shall by a decree or order create, declare, transfer, limit or extinguish any right, title, or interest of any person in any immoveable property situate in any part of British India in which this Act is for the time being in force, such Court shall cause a Memorandum of the said decree or order to be sent to every District Registrar and every Deputy Registrar within the local limits of whose jurisdiction such immoveable property or any part thereof is situate. Every such Memorandum received by a District Registrar or Deputy Registrar shall be entered by him in a book to be kept for the registration of decrees and orders: and a copy of such Memorandum shall be sent to the Registrar General.

REGISTRATION OF WILLS, CODICILS, AND AUTHORITIES TO ADOPT.

Mode of presenting for registration Wills, Codicils, and Instruments giving authority to adopt.

XLVI. Any person wishing to register his Will, a Codicil to his Will, or any Instrument giving authority to adopt a son after his decease, shall either personally or by a duly authorized agent deliver such Will or Codicil, or Instrument, in a sealed cover superscribed with the name of the depositor and the nature of the Instrument, to a District Registrar who shall, if the Will, Codicil, or Instrument be presented in person, satisfy himself of the identity of the person presenting it, or if the Will, Codicil, or Instrument be presented by an agent, shall satisfy himself of the authority of such agent as provided in Section XXVIII.

Such documents how to be entered.

XLVII. If satisfied as above, the District Registrar shall enter the receipt of every sealed cover delivered to him under the last preceding Section in the Register of Deposits of Wills, Codicils, and Instruments giving authority to adopt, transcribing therein the superscription on such sealed cover, and noting in the Register and on the sealed cover the year, month, day, and hour of such receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the depositor. The District Registrar shall then place the sealed cover in a fireproof box to be supplied by Government for that purpose.

XLVIII. If the

XLVIII. If the depositor of any such sealed cover shall wish to withdraw the same, it shall be lawful for him to apply by petition to the principal Court of original Civil jurisdiction having jurisdiction where the sealed cover was deposited, for an order that the same be given up to him. If the Court shall be satisfied as to the identity with the depositor of the person applying for such an order, it may if it shall see fit make such an order as applied for, and the District Registrar in whose Office the sealed cover was deposited shall deliver up the same in obedience to the order.

Withdrawal of such documents.

XLIX. If on the death of the depositor of a sealed cover under Section XLVI, application be made to the District Registrar in whose Office the said sealed cover was deposited to open the same, the District Registrar, after satisfying himself that the depositor is dead, shall in the presence of the person making such application open the sealed cover, and shall enter a copy of the contents thereof, to be made at the expense of the applicant, in a Register of Wills, Codicils, and Instruments giving authority to adopt a son. When such copy shall have been entered, the District Registrar shall re-deposit the original Will, Codicil, or Instrument, until required to produce the same in a Court of Justice.

Proceedings on death of depositor.

Re-deposit of such documents.

L. The District Registrar shall furnish to any applicant who shall pay to him the fees payable under this Act in respect thereof, a copy authenticated by his signature, of any Will re-deposited under the last preceding Section. And any copy certified by the District Registrar to be a true copy, shall be evidence of the contents of the Will, Codicil, or Instrument giving authority to adopt, of which it purports to be such copy.

Copies of Wills re-deposited to be furnished on payment of fees.

SPECIAL REGISTRATION OF OBLIGATIONS FOR PAYMENT OF MONEY.

LI. Whenever the parties to a bond or other written obligation for the payment of money, shall at the time of registering the same under the provisions of this Act apply to the District Registrar or Deputy Registrar to record their agreement, that in the event of the bond or other written obligation as aforesaid not being satisfied within the time stipulated the amount may be recovered as hereinafter provided without a suit, it shall be the duty of the District Registrar or Deputy Registrar, after making such enquiries as he may think proper, to record

Parties may have agreement recorded, that amount secured by a written obligation shall be recovered without suit

record such agreement at the foot of the endorsement required by Section XXXVI, and such record shall be signed by the District Registrar or Deputy Registrar, and by the parties to the bond or other written obligation as aforesaid.

Obligations for the payment of money registered with such agreement may be enforced without suit.

LII. A bond or other obligation for the payment of money registered with such agreement as in the last preceding Section mentioned, may be enforced without a suit by any Court which would have had jurisdiction to try a suit on such bond or other obligation for the recovery of the amount, provided that the application for the enforcement of the same be made within the period of one year from the date on which the amount became payable. The bond or other obligation as aforesaid shall be enforced as a decree in a suit under the rules applicable to the execution of decrees in the Court in which the application for enforcement is made, but subject to any provisions contained in any law for the time being in force, in relation to the enforcement, without a suit, of bonds or other obligations for the payment of money registered with such agreement as aforesaid. The application for the enforcement of a bond or other obligation for the payment of money under this Section shall be written on a stamp paper of one-fourth the value prescribed for a petition of plaint, in a suit to recover the same amount, under the provisions of Article 11, Schedule B, Act X of 1862 *(to consolidate and amend the law relating to Stamp Duties)*, or any other law for the time being in force for regulating Stamp Duties.

REGISTRATION FEES.

Fees to be charged for registration &c., how to be fixed.

LIII. Subject to the approval of the Governor-General of India in Council, the local Government shall prepare a table of fees payable for the registration of Instruments, for searching the Registers, and for making or granting copies of entries, abstracts, or Instruments, either on registration or search. Subject to the like approval, the local Government shall also prepare a table of special additional fees payable for every registration by a Registrar General under Section XXVI, and for such other matters as shall to the local Government appear necessary. The local Government may from time to time subject to the like approval alter such table. A table of the fees so payable shall be published in the Official Gazette, and shall be exposed to public view in every Office established for the registration of Instruments, and no Instrument shall be accepted for registration, and no copy shall be granted, and no search shall be made or allowed until the fee duly prescribed in that behalf shall have been paid.

Disposal of Fees.

LIV. All fees received under the provisions of this Act (not being fees payable under Section XI of this Act to Officers who are paid wholly or in part by fees), shall be remitted to such Treasury as the local Government shall direct, and be credited to Government.

REGISTERS.

Books.

Forms.

LV. The local Government shall provide for the Office of every Registrar General, District Registrar, and Deputy Registrar, such books as may be necessary for the purposes of this Act. The books so provided shall contain such printed forms as shall from time to time be prescribed by the Registrar General, with the sanction of the local Government, for the entries to be made therein and for the indexes to such books, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the Officer by whom such books shall be supplied. The local Government shall further supply the Office of every District Registrar with a fire-proof box.

Fire-proof boxes.

Four distinct Books.

LVI. In every General Register Office, and in the Office of every District Registrar and Deputy Registrar, four Books shall be kept, which shall be entitled—

1. Register of absolute transfers of immoveable property.

2. Register of other transfers of immoveable property.

3. Register of decrees and orders of Court and of awards of arbitrations.

4. General Register of all other Instruments for the registration of which provision is made in this Act, and the entry of which is not required to be made in any other Register.

In which book certain instruments to be registered.

LVII. All entries made in such books shall be numbered in a consecutive numerical series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year. Whenever any Instrument for the registration of which application may be made, refers to immoveable and also to moveable property, it shall be entered in Book No. 4 and also in Book No. 1, 2, or 3, as the case may be.

Indexes.

LVIII. Two Indexes shall be prepared for each Register, one containing the name of every party to every Instrument registered, and the other in the case of immoveable property containing the name of the village or place where the property is situate, together with a description of the property and its name, and such other particulars and in such form as the Registrar General shall from time to time prescribe under Section LXIV.

LIX. Every

Registers of Wills, &c.

LIX Every District Registrar shall, in addition to the books prescribed in Section LVI of this Act, keep two books, to be entitled—

Register of deposits of Wills, and Codicils to Wills, and Instruments giving authority to adopt a son, as provided in Section XLVII.

Register of Wills, Codicils, and Instruments giving authority to adopt a son, as provided in Section XLIX.

Inspection of Registers and copies of entries.

LX. Subject to the previous payment of such fees as may be payable in that behalf, the Registers in the General Register Offices and in the Offices of all District Registrars and Deputy Registrars shall be at all times open to inspection by any person applying to inspect the same, and certified copies of any entry in such Registers shall be given to all persons applying for such copies. Provided that the only Registers to be inspected shall be the Registers No. 1, 2, and 3, specified in Section LVI, and the Register specified in Section XLIX.

GENERAL RULES.

Control of proceedings of Deputy Registrars.

LXI. Every Deputy Registrar shall perform the duties of his Office under the superintendence and control of the District Registrar in whose District the Office of such Deputy Registrar shall be situate; and the District Registrars shall have authority to issue (whether on complaint or otherwise) any orders they may consider necessary in respect of any proceeding or omission of any Deputy Registrar subordinate to them.

Revision of orders of Deputy Registrars refusing registration

LXII. Every District Registrar may revise or alter any order of any Deputy Registrar subordinate to him, refusing to admit a document to registration, if an appeal against such order be presented to the District Registrar within thirty days from the date of the order, but not otherwise.

No appeal from order admitting to registration

LXIII. No appeal shall lie to the District Registrar from an order of a Deputy Registrar admitting an Instrument to registration.

General control by Registrar General

Power to frame Rules.

LXIV. The Registrar General shall exercise a general superintendence over all the Register Offices within the local limits of his jurisdiction, and shall have power from time to time to frame rules not inconsistent with the terms of this Act, for the guidance of the District Registrars and Deputy Registrars subordinate to him, for regulating the proceedings of these Officers, and for providing for the safe custody of books, papers, and Instruments, and also for the destruction of such books, papers, and Instruments

Instruments as it may be deemed to be no longer necessary to keep. The rules so framed shall be submitted to the local Government for approval, and after they shall have been approved, they shall be published in the Official Gazette, and shall have the same force as if they were inserted in this Act.

Registration to be made at a Public Office.

Exception.

LXV. The registration of all Instruments under this Act shall be made only at the Public Office of the Officer whose duty it shall be to register the same: but any District Registrar or Deputy Registrar may on special cause being shown attend at the place of residence of any party intending to execute any Instrument, or of any person desiring to deposit a Will, Codicil, or Authority to adopt a son. Every Deputy Registrar so attending shall within twenty-four hours report to the District Registrar to whom he is subordinate the fact of his having attended and his reason for so doing.

Reasons for refusal to register to be recorded by District Registrar or Deputy Registrar.

LXVI. Every District Registrar or Deputy Registrar who shall refuse to register an Instrument, and every District Registrar who shall refuse to order an Instrument to be registered, shall record his reasons for so refusing, and on application made by any party to the Instrument and on his furnishing a stamped paper of the value of eight annas, shall give him a copy of the reasons so recorded.

Time from which registered Instrument shall operate.

LXVII. A registered Instrument shall operate from the time from which it would have commenced to operate if no registration had been required or made, and not from the time of its registration.

Priority of certain registered Instruments.

LXVIII. Every Instrument of the descriptions mentioned in Clauses 1 and 2 of Section XVI shall, if duly registered, have priority to any other Instrument relating to the same property, whether such other Instrument be of the same nature as the registered Instrument or not.

Registry of Instruments executed by, or on behalf of, Government.

LXIX. It shall not be necessary for any Officer of Government to appear in person for the purpose of registering any Instrument, but when any Instrument is executed by, or on behalf of, Government, or by any Court, Board, Commission, or Public Office on behalf of Government, the District Registrar or Deputy Registrar to whom such Instrument is presented for registration, may if he deem it necessary refer to the Head Officer of the Court, Board, Commission, or Office on whose behalf such Instrument was executed, for information respecting the same, and on being satisfied of the execution thereof shall register the Instrument.

LXX. If any

False statements before any Officer acting under this Act how punishable.

LXX. If any person shall wilfully make any false statement in any deposition or declaration made by him before any Officer acting in execution of this Act, in any proceeding or enquiry under the provisions of this Act, he shall be deemed guilty of the offence of giving false evidence as defined in Section 191 of the Indian Penal Code.

Commencement of Act.

LXXI. This Act shall come into operation on the first day of January 1865 in the Presidencies of Bengal, Madras, and Bombay. This Act shall not come into operation in any other part of British India until it shall be extended thereto by an order of the Governor-General of India in Council, or by an order of the local Government, to be notified in the Official Gazette.

SCHEDULE.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Reg. XXXVI. 1793 ...	Bengal Code	For establishing a registry for Wills and Deeds for the transfer or mortgage of real property —	The whole Regulation.
Reg. XXVIII. 1795 ...	Bengal Code	For extending to the Province of Benares, Regulation XXXVI. 1793, entitled "A Regulation for establishing a registry for Wills and Deeds for the transfer or mortgage of real property"	The whole Regulation.
Reg. XVII. 1803 ...	Bengal Code	For establishing a registry for Wills and Deeds for the transfer or mortgage of real property in the Provinces ceded by the Nawab Vizier to the Hon'ble the English East India Company.	The whole Regulation.
Reg. VIII. 1805 ..	Bengal Code	For extending to the conquered Provinces situated within the Doab and on the right bank of the River Jumna, and to the Territory ceded to the Hon'ble the English East India Company in Bundlecund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Hon'ble the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations.	Section XVII so far as it relates to Regulation XVII. 1803.
Reg. XII. 1805 ..	Bengal Code	For the settlement and collection of the Public Revenue in the Zillah of Cuttack, including the Pergunnahs of Puttespore, Kummardichour, and Bograe, at present included in the Zillah of Midnapore. ...	Section XXXII.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Reg. XX. 1812	Bengal Code	For modifying some of the provisions contained in the existing Regulations respecting the registry of Deeds, and for establishing a Register of engagements for the delivery of Indigo.	The whole Regulation.
Reg. IV. 1824	Bengal Code	To provide more effectually for the Office of Register of Deeds.	The whole Regulation.
Reg. VII. 1832 ...	Bengal Code	For modifying certain of the provisions of Regulation V. 1831 and for providing Supplementary Rules to that enactment.	Section IV.
Reg. XVII. 1802	Madras Code	For establishing a registry for Wills and Deeds for the transfer or mortgage of real property.	The whole Regulation.
Reg. XI. 1831	Madras Code	To provide more effectually for the Office of Register of Deeds.	The whole Regulation.
Reg. IX. 1827 ...	Bombay Code	For establishing a Register of Title Deeds and a general Register of Deeds, obligations, and other writings, in each Zillah subordinate to the Presidency of Bombay.	The whole Regulation.
Reg. XIII. 1828. ...	Bombay Code	For enabling Assistant Judges, when expedient, to keep the Registers prescribed by Regulation II of 1827, when stationed in the Districts.	The whole Regulation.

Number and date of Acts.	Title.	Extent of Repeal.
Act XXX. 1838 ..	...	The whole Act.
Act I. 1843 ...	For amending the Law concerning the registration of written Conveyances and other Instruments affecting titles and other interests to land.	The whole Act.
Act XIX. 1843	For amending the Law respecting the Registration of certain Deeds.	The whole Act.
Act IV. 1845 ..	To amend the Law regarding the Registration of Deeds.	The whole Act.
Act XVIII. 1847 ...	For curing the invalidity in the registration of Deeds arising from the fact of having been registered by persons not duly appointed or on other than Court days.	The whole Act.
Act XI. 1851 ...	For the custody of Registers of Deeds in the Presidency of Bengal.	The whole Act.
Act XXIX. 1856 ...	Concerning the taking of Oaths of Office by Registers of Deeds.	The whole Act.
Act III. 1859 ...	For conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds.	Sections IX and X.

ACT No. XVII of 1864

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1864).

An Act to constitute an Office of Official Trustee.

Preamble.

WHEREAS it is expedient to amend the law relating to Official Trustees, and to constitute an Office of Official Trustee; It is enacted as follows:—

Interpretation.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the context repugnant to such construction, that is to say:—

"High Court."

The expression "High Court" shall mean Her Majesty's High Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay respectively in the exercise of their original Civil jurisdiction.

"Chief Justice."

The expression "Chief Justice" shall mean the Chief Justice or Acting Chief Justice for the time being of any of the said High Courts.

"Person."

The word "person" shall include a corporation.

Number.

Words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

Act XVII of 1843 repealed.

II. Act XVII of 1843 *(for the appointment of Official Trustees in certain cases)* is hereby repealed except as to any proceedings pending or any Trusts now vested in an Official Trustee under it, and except in so far as that Act is made applicable to the Settlement

PRICE 2 ANNAS.

ment of Prince of Wales' Island, Singapore, and Malacca, by Act XIV of 1852 (*for extending the provisions of Acts XXIV of* 1841 *and XVII of* 1843 *to the Straits' Settlement*).

Official Trustee under Act XVII of 1843 to act as if appointed under this Act, save as regards remuneration

III. Every Official Trustee appointed under the said Act XVII of 1843 shall, save as regards the remuneration to be received by him, hold and execute the Trusts of which he is Trustee in all respects as if he were an Official Trustee appointed under this Act.

An Official Trustee to be appointed in each Presidency.

IV. In each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, there shall be an Official Trustee. The said Official Trustees shall be called the Official Trustee of Bengal, the Official Trustee of Madras, and the Official Trustee of Bombay respectively.

Appointment, suspension, and removal of Official Trustees.

V. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his Office by the authorities hereinafter named, that is to say—

The Official Trustee of Bengal by the Chief Justice of Her Majesty's High Court of Judicature at Fort William in Bengal.

The Official Trustee of Madras by the Chief Justice of Her Majesty's High Court of Judicature at Fort St. George.

The Official Trustee of Bombay by the Chief Justice of Her Majesty's High Court of Judicature at Bombay.

Administrator General may be appointed Official Trustee.

VI. The Administrator General or Officiating Administrator General for the time being of any of the said Presidencies shall be eligible for the Office of Official Trustee of that Presidency. Every Official Trustee appointed under this Act shall give security for the due execution of the duties of his Office in such manner and to such amount as the Chief Justice by whom he is appointed shall direct.

Security to be given by Official Trustee.

Leave of absence of Official Trustee, and appointment of a person to officiate for him.

VII. ~~It shall be lawful for the Chief~~ Justice of the High Court at any of the Presidencies, from time to time, to grant leave of absence to the Official Trustee of that Presidency, but subject always to such and the like rules as may be for the

the time being in force as to leave of absence of the Officers attached to such High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Chief Justice to appoint some person to officiate as ~~Official Trustee,~~ and such person while so officiating shall be subject to the same conditions and be bound by the same responsibilities as the Official Trustee, and he shall be deemed to be the Official Trustee for the time being under this Act, and shall be liable to give security for the due execution of the duties of his Office in like manner as if he had been appointed Official Trustee.

Official Trustee may, with his consent, be appointed Trustee of a settlement by grantor &c.

VIII. If any person shall be about to grant, assign, or settle any property moveable or immoveable, of what nature or kind soever, upon or subject to any Trust, whether for a charitable purpose or otherwise, it shall be lawful for such person, with the consent of the Official Trustee, to appoint him, by the deed creating the Trust, to be the Trustee of such settlement; and upon such appointment the property so granted, assigned, or settled shall vest in such Officer and his successors in Office, and shall be held by him and them upon the Trust declared and contained in the said deed. Provided always that the consent of the Official Trustee shall be recited in the said deed, and that the deed shall be duly executed by the Official Trustee: provided also that no Trust for any religious purpose shall ever be held by the Official Trustee, under this or under any other section of this Act.

Official Trustee appointed under last preceding Section, to receive only the remuneration specified in the deed.

IX. Every Official Trustee appointed Trustee of any property under the last preceding Section, shall be entitled to receive by way of remuneration in that behalf such sum or sums only as he shall by the deed of settlement be declared to be entitled to receive.

Under what other circumstances Official Trustee may be appointed Trustee of any property.

X. If any property is subject to a Trust, whether for a charitable purpose or otherwise, and there shall be no Trustee willing to act or capable of acting in the Trusts thereof, who is within the local limits of the ordinary or extraordinary original Civil jurisdiction of the High Court, or if property is subject to a Trust, and all the Trustees, or the surviving or continuing Trustee and all the persons beneficially interested in the said Trust, shall be desirous that the Official Trustee shall be appointed in the room of such Trustees or Trustee, then and in any such case it shall be lawful for the High Court on petition, and with the consent of the Official Trustee, to appoint the Official Trustee to be the Trustee of such property: and upon such appointment such property shall vest in the Official Trustee and his successors in

in Office, and shall be held by him and them upon the same Trusts as the same were held previous to such appointment.

Rate of commission under last preceding Section.

XI. The Official Trustee shall be entitled by way of remuneration, in respect of all Trust property transferred to him under the last preceding Section, to a commission the rate of which shall be as follows, that is to say,—

On all capital monies received by him, a commission of one half per cent. on receiving the same.

On all capital monies invested by him, a commission of one half per cent. on investing the same.

On all sums received by him by way of interest or dividends in respect of monies invested, a commission of three quarters per cent.

On all rents collected by him, a commission of two and a half per cent.

What expenses, &c., commission to cover.

XII. The Official Trustee shall defray all the expenses of the establishment necessary for his Office, including the provision of Office accommodation together with all other charges to which the said Office shall be subject, except those for which express provision is made by this Act, and except those costs of litigation and the like which a Trustee would, under ordinary circumstances, be entitled to pay for out of the Trust monies in his hand. The commission to which the Official Trustee shall be entitled, is intended to cover all the expenses and risk and responsibility of management, collection, and distribution.

In all cases Official Trustee to be sole Trustee.

XIII. It shall in no case be lawful to appoint the Official Trustee to be a Trustee along with any other person: but the Official Trustee shall always be sole Trustee.

In what securities Official Trustee to invest Trust money.

XIV. The Official Trustee shall cause all capital monies received by him to be invested in Government securities, or otherwise as the Court shall direct: and if in any case the Trust funds or any part of them shall at the time of their vesting in the Official Trustee be invested otherwise than as provided in the deed or Will creating the Trust or than as ordered by the Court, it shall be the duty of the Official Trustee, as soon as he reasonably can, to realize the funds so improperly invested, and to invest the same in Government securities or otherwise as the Court shall direct.

XV. The

XV. The High Court may make any such orders as shall seem to it necessary respecting any Trust property vested in the Official Trustee, or the interest or produce thereof. All such orders shall be made on petition, unless the Court shall direct a suit to be instituted.

High Court may make orders respecting Trust property vested in Official trustee.

XVI. Nothing in this Act shall prevent the re-transfer of any Trust property which may have become vested in the Official Trustee, to the original or any subsequently appointed Trustee, or to such person as the Court shall direct, unless otherwise provided by the deed or Will creating the Trust.

Re-transfer of Trust property to original, or transfer to other, Trustee.

XVII. All orders which shall be made appointing any Official Trustee to act as Trustee in virtue of his Office, shall appoint him by his name of Office and shall authorize the Official Trustee for the time being of the same Presidency to act as Official Trustee of the property to which such order shall relate: and all property and interests which at the time of the death, resignation, or removal from Office of any Official Trustee shall be vested in him by virtue of such order, shall upon such death, resignation, or removal cease to be vested in him, and shall vest in his successor in Office immediately upon his appointment thereto, and all books, papers, and documents kept by such Official Trustee by virtue of his Office shall be transferred to and vested in his successor in Office.

Order of appointment of Official Trustee.

On death, &c, of Official Trustee, property to vest in his successor.

XVIII. All actions, suits, or other proceedings which shall be commenced by or against any Official Trustee in his official character, may be brought by or against him by his name of Office, and no suit, action, or other proceeding already commenced or which shall be commenced by or against any person as Official Trustee either alone or jointly with any other person, shall abate by reason of the death, resignation, or removal from Office of any such Official Trustee, but the same may by order of the Court and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred. Provided that nothing herein contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him, or shall release an Official Trustee who has resigned or been removed from his Office, or the heirs, executors, administrators, or representatives of a deceased Official Trustee from being liable for any such costs.

Official Trustee to sue or be sued by his name of Office. Suit not to abate by death, &c.

Proviso.

XIX. Every

Official Trustee to keep a separate account of each Trust, to be open to the inspection of the Chief Justice, and of any person authorized by him to demand inspection.

XIX. Every Official Trustee appointed under this Act shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each Trust of which he is the Trustee, and of all such sums of money and securities for money, goods, and things, as shall come to his hands, or to the hands of any person employed by him, or in Trust for him, under this Act, and likewise of all payments made by him on account of such Trust, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the Official Trustee's Office, and shall be at all times open for the inspection of the Chief Justice and of any person authorized by him to demand inspection thereof.

Chief Justice may make and alter rules and orders for custody of Trust Funds, &c.

XX. The Chief Justice shall have power, from time to time, to make and alter any general rules and orders consistently with the provisions of this Act, for the safe custody of the Trust Funds and securities which shall come to the hands or possession of the Official Trustee, and for the remittance to Europe or elsewhere of all sums of money which shall be payable or belong to persons resident in Europe or elsewhere, or in other cases where such remittances shall be required, and generally for the guidance and government of the Official Trustee in the discharge of his duties; and may by such rules and orders, amongst other things, direct what books, accounts, and statements in addition to those mentioned in this Act, shall be kept by the Official Trustee, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the funds and securities and other the property belonging to the Trust of which the Official Trustee is the Trustee shall be kept or invested or deposited, and how any remittances thereof shall be made.

Publication of orders, &c.

XXI. Such orders shall be published in the Official Gazette, and it shall be the duty of the several Official Trustees to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Official Trustee to furnish Annual Schedules which shall be filed in the High Court.

XXII. The Official Trustee of each of the said Presidencies shall once in every year, that is to say, on the first day of March, or on such other day as the Chief Justice shall direct, deliver to the Chief Justice a true Schedule showing the gross amount of all sums of money received or paid by him on account of each Trust of which he is the Trustee, and the balances during the year ending

ending on the thirty-first day of December next before the day of delivering such Schedule, and a true list of all securities received on account of each of the said Trusts during the same period; and also a true Schedule of all Trusts which shall have come to an end or of which the Official Trustee shall have ceased to be the Trustee and the property subject to which shall have been paid or made over to the persons entitled to the same or to new Trustees during the same period, specifying the nature and amount or value of such property and the persons to whom paid or made over. The Chief Justice shall cause the said Schedules to be filed as record in the High Court; but it shall not be lawful for any person to inspect the same or to make copies thereof or of any part thereof, except on an order granted by the Chief Justice permitting him so to do.

Inspection of Schedules so filed.

XXIII. The Chief Justice shall from time to time appoint an Auditor or Auditors to examine the accounts of the Official Trustee at the time of the delivery of the said Schedules and also at any other time when the Chief Justice shall think fit.

Chief Justice to appoint Auditors.

XXIV. The Auditor or Auditors shall examine the Schedules and accounts, and report to the Chief Justice whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which by this Act are, or which by any such general rules and orders as aforesaid shall be directed to be kept by the Official Trustee, have been duly and regularly kept, and whether the Trust funds and securities have been duly kept and invested and deposited in the manner prescribed by this Act or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine Schedules and accounts of Official Trustee and to report to Chief Justice.

XXV. Every Auditor shall have power to summon as well the Official Trustee as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Official Trustee or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers, and documents, which shall appear to him to be necessary for the purposes of the said reference; and if the Official Trustee or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher, or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to

Auditors to have power to summon witnesses and to call for books, &c.

to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the High Court; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said High Court.

Penalty for refusal or neglect to attend &c., to produce books &c.

XXVI. The costs and expenses of preparing the said Schedules and accounts and of every such reference and examination as aforesaid, shall be defrayed by all the Trust estates to which such Schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed by each of the said Trust estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Chief Justice, and shall be paid out of the said estates accordingly by the Official Trustee.

Costs of preparing Schedules, &c., how to be paid.

XXVII. If upon any such reference and examination the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the Trust Funds and securities have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Official Trustee has failed to comply with the provisions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Chief Justice.

Matters to be reported by Auditors.

XXVIII. The Chief Justice may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the High Court by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the Trust estates then or formerly under the charge of such defaulter; and the Court shall have power, upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Proceedings upon such report.

XXIX. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants, or out of the Trust estates rateably as the said Court shall direct; and whenever

Costs upon such proceedings, &c., how to be defrayed.

ever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the Official Trustee or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the High Court to have same effect, and to be executed in the same manner, as decrees.

XXX. Any orders which shall be made by any of the said High Courts shall have the same effect and be executed in the same manner as decrees.

Who may apply for order under this Act.

XXXI. Any order under this Act may be made on the application of any person beneficially interested in any Trust property, or of any Trustee thereof, whether under disability or not.

Executor or Administrator may, by leave of the High Court, pay to Official Trustee, legacy, share, &c., to which an infant or lunatic is entitled

XXXII. If any infant or lunatic shall be entitled to any gift or legacy or residue or share thereof, it shall be lawful for the Executor or Administrator by whom such legacy, residue, or share may be payable or transferable, or the party by whom such gift may be made, or any Trustee of such gift, legacy, residue, or share, to pay or transfer the same to the Official Trustee appointed under this Act; provided that the leave of the High Court to make such payment or transfer shall be first obtained by motion made on petition. Any money or property paid or transferred to the Official Trustee or vested in him under this Section shall be subject to the same provisions as are contained in this Act as to other property vested in such Official Trustee under the provisions thereof.

ACT No. XVIII of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1864).

An Act to provide for the appointment of a Municipal Committee for the City of Lucknow.

Preamble.

WHEREAS it is expedient to make provision for the appointment of a Municipal Committee for the City of Lucknow, and for levying duties on certain articles brought within the limits of the said City for consumption there, and generally for the regulation of all matters relating to the conservancy and improvement of the said City; It is enacted as follows :—

Appointment of Municipal Committee.

I. On and after such date as the Chief Commissioner of Oudh shall order, there shall be a Committee for the purposes of this Act, which shall be called "The Municipal Committee of the City of Lucknow." The said Committee shall consist of twenty-five Members, of whom six shall be *ex-officio* Members.

Ex-officio Members of the Committee.

II. The persons for the time being filling the following Offices shall respectively be *ex-officio* Members of the Municipal Committee. That is to say, the persons filling the Offices of—

Commissioner of Lucknow,

Deputy Commissioner of Lucknow,

Inspector General of Police in Oudh,

Civil Surgeon of Lucknow,

Executive Engineer of Lucknow,

City Magistrate of Lucknow.

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The Non-official Members of the said Committee shall be elected annually by and from amongst the inhabitants of the City, and shall hold office for one year only, but shall be eligible for re-election.

Non-official Members to be elected annually.

III. The Chief Commissioner of Oudh shall from time to time declare what shall be deemed to be the limits of the City of Lucknow for the purposes of this Act. He shall also declare who are, for the purposes of the last preceding Section, to be deemed inhabitants of the said City, and shall lay down rules fixing the times when the election of the Non-official Members of the Committee shall take place, and regulating the manner in which the elections shall be conducted. The appointment of every Non-official Member shall be subject to the approval of the Chief Commissioner, and in the event of any person elected not being approved of by him, the inhabitants shall proceed forthwith to elect another person in his stead.

Chief Commissioner to define limits of Lucknow, and to regulate the mode of election. Appointment of Non-official Members to be subject to his approval.

IV. It shall be lawful for the Chief Commissioner to remove from office any Non-official Member of the Committee; and in the event of any such Member being so removed, it shall be in the discretion of the Chief Commissioner to determine whether or not any person shall be elected to supply his place for the unexpired portion of the year for which such Member was elected.

Chief Commissioner may remove Non-official Members.

V. It shall be lawful for the Chief Commissioner at any time with the sanction of the Governor-General of India in Council to suspend or limit the powers or any of the powers of the Committee.

Powers of Committee how to be limited or suspended.

VI. The Commissioner of Lucknow for the time being shall be the President of the Committee; the Deputy Commissioner of Lucknow shall be the Vice-President, and the City Magistrate of Lucknow shall be the Secretary.

What officers to be President, Vice-President, and Secretary of the Committee.

VII. The Municipal Committee, so far as the funds at their disposal will permit, shall keep the streets, drains, and tanks of the City properly cleansed and repaired, and shall cause the said streets or such of them as may to them seem proper, to be lighted, and may construct new streets, drains, and tanks, and generally may do all acts and things necessary to the conservancy and improvement of the City so far as such acts and things be not repugnant to or inconsistent with the provisions of this or any other Law.

Committee to do acts necessary for the conservancy and improvement of the City consistently with law.

VIII. It

VIII. It shall be lawful for the Municipal Committee from time to time to enter into all necessary contracts for the purposes of this Act. Such contracts, if in writing, shall be signed by the Secretary and at least three Members of the Committee, and if any such contract be not reduced to writing, it shall be made with the Secretary. No contract made otherwise than as herein declared shall be in any way binding on the Committee, and no contract involving an expenditure of more than ten thousand Rupees shall be binding on the Committee unless made in writing and with the sanction of the Chief Commissioner of Oudh.

Into what contracts Committee may enter, and their mode of contracting.

IX. No Member of the Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee; but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts and expenses duly incurred as aforesaid. Every Member of the Committee shall be liable for any misapplication of any monies entrusted to the Committee, to which he shall have been knowingly party or privy, or which shall have happened through gross neglect of his duty, and he shall be liable to be sued for the same in such Court as the Chief Commissioner of Oudh shall direct, as for money due to the Government of India.

Members of the Committee not to be personally liable upon contracts made by the Committee.

Under what circumstances to be liable for the misapplication of money entrusted to the Committee.

X. The Committee shall each year, on or before such date prior to the first day of May as shall be fixed by the Chief Commissioner, furnish the Chief Commissioner with a statement or estimate (in such form as the Chief Commissioner shall direct) showing the expenditure which it is proposed by the Committee to incur during the year commencing on the first day of May then next, and the items in respect of which it is proposed to make such expenditure.

Annual estimate of expenditure to be incurred during the year to be sent to Chief Commissioner.

XI The Committee shall, as soon as may be after the first day of May in each year, provide the Chief Commissioner with a statement in detail, of all the work done by them and of all sums received and of all sums expended by them during the year ending on the thirtieth day of April then next preceding, in such form as the Chief Commissioner shall from time to time direct.

Accounts and statement of work done, receipts and expenditure, to be annually furnished to Chief Commissioner.

XII. All such monies as the Chief Commissioner or any other person shall from time to time make over to the Municipal Committee for the purposes of this Act and all fines levied under this Act

Municipal Fund.

Act shall form a Municipal Fund, of which the Committee shall be the Trustees, and which shall be applied by the Committee to the conservancy and improvement of the City of Lucknow, and to the payment of the salaries and wages of the Officers and servants employed by the Committee, and all other expenses incurred in or about the carrying out the provisions of this Act.

Duty to be levied on articles taken into Lucknow for consumption or use therein. Rates how to be fixed.

XIII. Duties on such things, and at such rates as the Chief Commissioner shall with the sanction of the Governor-General of India in Council from time to time declare, shall be levied in respect of the said things when brought into the City of Lucknow for consumption or use therein. The said duties shall be collected by such persons and in such manner as the Chief Commissioner shall direct. It shall be lawful for the Chief Commissioner to farm or let out the collection thereof for such period or periods as he shall think fit, but he shall in every case lay down rules as to the mode of levying and collecting the duties, and such rules shall have the like force and effect as Bye-laws duly made by the Committee.

Money received on account of duty to whom to be paid.

XIV. All monies received on account of the duties aforesaid, if the same be collected directly under the orders of the Chief Commissioner, and all monies received from the farming or letting out the collection of the duties, shall be paid into the Bank of Bengal to the credit of the Chief Commissioner. Out of the monies paid in under this Section, the Chief Commissioner shall (after defraying the costs of collection if any) make over to the Committee for the purposes of this Act such sum, not being less than one-third of the monies so paid in, as shall to the Chief Commissioner seem proper.

Power of Committee to make Bye-laws.

XV. The Municipal Committee may from time to time make such Bye-laws as they may think fit, for defining, prohibiting and removing nuisances which are not public or common nuisances under the Indian Penal Code; for regulating the time and place of meeting of the Committee; the conduct of business at such meetings; the division of duties among the Members of the Committee; the appointment, suspension and removal of Officers and servants of the Committee, and fixing the salaries of such Officers and servants; for imposing penalties for the infringement of any Bye-law made by the Committee; and generally for the management of all matters connected with the conservancy and improvement of the City. The Committee may also from time to time repeal, alter, and amend any such Bye-laws. Provided that no Bye-law shall be repugnant to any law in force. Provided also that no penalty for the infringement of any such Bye-law shall exceed fifty Rupees, and that in case

case of a continuing infringement, no penalty shall exceed ten Rupees for every day after notice from the Committee of such infringement.

Bye-laws to be approved by Chief Commissioner.

XVI. No Bye-law or alteration of a Bye-law shall have effect until the same shall have been approved and confirmed by the Chief Commissioner, and shall have been duly published for such length of time and in such manner as the Chief Commissioner shall order.

Copies of Bye-laws to be exhibited in the office of the Committee.

XVII. A copy in the English and Hindoostanee languages, of every Bye-law and alteration of a Bye-law for the time being in force shall be painted on or affixed to boards, and such boards shall at all times be hung up in some conspicuous part of the office of the Committee.

Bye-laws to be of the same effect as if they were inserted in this Act.

XVIII. All Bye-laws, when the same shall have been duly confirmed and published shall, until the same be repealed or altered, be of the like effect as if they were inserted in this Act.

Before whom prosecutions to be instituted under this Act.

XIX. All prosecutions under this Act shall be instituted before a person exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and all fines imposed may be recovered in the manner prescribed in Section 61 of the said Code. The amount of all fines realized shall be paid to the Municipal Committee and be applied by them to the purposes of this Act.

Control of Governor-General in Council in respect of this Act.

XX. The Chief Commissioner of Oudh shall, in every thing done under or relating to this Act, be subject to the orders and control of the Governor-General of India in Council.

This Act may be extended to any place under the immediate administration of the Government of India.

XXI. It shall be lawful for the Governor-General of India in Council to extend this Act to any place under the immediate administration of the Government of India. Whenever this Act shall be extended to any place under the provisions of this Section, it shall have effect in such place as if the name of such place were substituted throughout this Act for the name "Lucknow." The Governor-General of India in Council in extending this Act shall declare what and how many persons shall be ex-officio Members of the Municipal Committee of the place to which it is extended.

XXII. The

A system of taxation for such place may be established in lieu of provisions of Sections XIII and XIV of this Act.

XXII. The Chief Commissioner of any place to which this Act shall be extended under the last preceding Section may, with the sanction of the Governor-General of India in Council, declare that Sections XIII and XIV or either of them, or any of the provisions of those Sections, shall be of no effect in such place, and may also with the like sanction define the persons or property within such place to be taxed for raising the monies necessary for the purposes of this Act, whether by house assessment or town duties or otherwise, the amount or rate of the taxes to be imposed, the manner of raising and collecting them and ensuring the safety and due application of them when collected. Provided that no tax, duty, or other rate shall be levied under this Section in any place in which duties are levied under Section XIII of this Act.

Proviso.

ACT No. XIX of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1864).

An Act to remove certain tracts of Country in the District of Mirzapore from the jurisdiction of the local Courts.

Preamble.

WHEREAS it is expedient to remove certain tracts of country in the District of Mirzapore from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Officers of that District under the General Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from jurisdiction of the ordinary tribunals.

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Officers of Revenue, constituted by the Regulations of the Bengal Code and by the Acts passed by the Governor-General of India in Council: Provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

Administration of justice and collection of revenue, vested in Officers appointed by Lieutenant-Governor of the North-Western Provinces.

II. The administration of Civil and Criminal Justice and the superintendence of the settlement and realization of the Public Revenue, and all matters relating to rent within the said tracts, are hereby vested in such Officer or Officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance or of reference and appeal, appoint; and the said Lieutenant-Governor may fix the periods within which appeals shall be preferred; provided that no sentence of death passed by any person competent under the appointment of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court.

III. When

III. When a question shall arise whether any place falls within the tracts described in the Schedule of this Act, it shall be competent to the Commissioner of the Division to determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

Question as to whether a place falls under this Act how to be settled.

IV. This Act shall take effect from such date as shall be fixed by the Lieutenant Governor of the North-Western Provinces, and notification thereof shall be published in the Office of the Commissioner of the Division, and in the Courts of the Civil and Sessions Judge, and of the Magistrate of the District, and in such other manner as the Lieutenant-Governor may direct.

Commencement of operation of this Act.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—

Pergunnah Agoree, Tuppahs Agoree Khas and South Kone.

Pergunnah Singrowlee, Tuppah British Singrowlee.

Pergunnah Bicheepore, Tuppahs Phoolwa, Doodhee, and Burha.

ACT No. XX OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1864).

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to make better provision for the care of the persons and property of Minors in the Presidency of Bombay; It is enacted as follows:—

Care of persons and charge of property of Minors vested in the Civil Court.

I. The care of the persons of all Minors (not being European British subjects) and the charge of their property shall vest in the Civil Court.

What persons claiming to have charge of property in trust for a Minor may apply for Certificate of Administration.

II. Every person who shall claim a right to have charge of property in trust for a Minor under a Will or Deed or other instrument in writing, or by reason of nearness of kin or otherwise, may apply to the Civil Court for a Certificate of Administration; and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge, until he shall have obtained such Certificate. Provided that when the property is of small value, not exceeding Rupees two hundred and fifty, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of Administration has not been granted to such relative.

No person to institute or defend a suit without such Certificate.

Proviso.

Who may apply to Court to appoint a person to take charge of the property, &c., of a Minor.

III. Any relative or friend of a Minor in respect of whose property such Certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the District, may apply to the Civil Court to appoint a fit person to take charge of the property and person of such Minor.

IV. If

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IV. If the property be situate in more than one District, any such application as aforesaid shall be made to the Civil Court of the District in which the Minor has his residence.

To what Court application to be made if property be situate in more than one District.

V. When application shall have been made to the Civil Court a person claiming a right to have char[illegible] property of a Minor, or by any relative [illegible] of a Minor, or by the Collector, the Court shall issue notice of the ap[illegible] and fix a day for hearing the same. On the day so fixed, or as soon after [illegible] may be convenient, the Court shall inquire summarily into the circumstances, and pass orders in the case. Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it to make such inquiry and report the result.

Summary inquiry to be made by Court on application.

Proviso.

VI. If it shall appear that any person claiming a right to have charge of the property of a Minor is entitled to such right by virtue of a Will or Deed or other instrument in writing, and is willing to undertake the trust, the Court shall grant a Certificate of Administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust and there is any near relative of the Minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a Certificate to such relative. The Court may also if it think fit (unless a Guardian have been appointed by the father), appoint such person as aforesaid, or such relative or any other relative or friend of the Minor, to be Guardian of the person of the Minor.

Certificate of Administration to whom to be granted.

Court may appoint person having such Certificate Guardian of Minor's person.

VII. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the Minor, who may be desirous or willing to be entrusted with the charge of his property or person, and it shall be incumbent on the Collector or Magistrate to furnish such report after making all due inquiry.

Court may call upon Collector or Magistrate for a report on the character and qualification of relative or friend.

VIII. If no title to a Certificate be established to the satisfaction of the Court by a person claiming under a Will or Deed or other instrument in writing, and if there be no near relative willing and fit to be entrusted with the charge of the property or person of the Minor, and the Court shall think it

Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted with the charge of property, &c., of Minor.

it to be necessary for the interest of the Minor that provision should be made by the Court for the charge of his property or person, the Court shall proceed to make such provision in the manner hereinafter provided.

If estate consists of moveable property, &c., Court may grant Certificate to Public Curator or other person

IX. If the estate of the Minor consists of moveable property or of houses, gardens, or the like, the Court shall grant a Certificate to the Public Curator appointed under Section XIX, Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), or if there be no Public Curator to any fit person whom the Court may select for the purpose.

Appointment of Guardian

X. Whenever the Court shall grant a Certificate of Administration to the estate of a Minor as aforesaid, it shall at the same time appoint a Guardian to take charge of the person and maintenance of the Minor. The person to whom a Certificate of Administration has been granted, unless he be the Public Curator, or the legal heir of the Minor, or next in succession to the property, may be appointed Guardian. Provided that in the case of Minors who have inherited property by adoption, the natural father may be appointed Guardian. If the person appointed to be Guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance to be paid out of the estate of the Minor as under the circumstances of the case it may think suitable. The Court may also fix such allowance as it may think proper for the maintenance of the Minor, surviving parent whether natural or adoptive, husband, wife and children, if any, and such allowance and the allowance of the Guardian (if any) shall be paid to the Guardian by the Public Curator or other person as aforesaid.

Guardian's allowance

Allowance for maintenance of Minor &c

When the estate consists of land, Court may direct Collector to take charge of estate.

XI. If the estate of the Minor consist in whole or in part of land or any interest in land, the Court may direct the Collector of the District in which the larger part of the same may be situated to take charge of the estate.

Court may take security.

XII. The Civil Court may take such security as it shall think necessary, from any person to whom it may grant a Certificate of Administration of the property of any Minor under

under this Act. Provided always, that no such security shall be demanded from the Collector of a District or the Public Curator, when their services may be availed of.

Proviso.

XIII. In all inquiries and other proceedings held or had by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application such inquiry was made or proceeding had, or out of the estate of the Minor, or otherwise, as it may think proper.

Cost of inquiries under this Act.

XIV. Whenever one or more of the proprietors of an estate which has been placed under the Collector's charge shall have passed his or their minority, the Collector shall represent the fact to the Civil Court, and the Court, unless it see sufficient reason to the contrary, may direct the Collector to retain charge of the shares of the property of the still disqualified proprietors during the continuance of their disqualification, or until it shall be otherwise ordered by the Court; or the Court may direct the whole estate to be made over to the management of the proprietor or proprietors who shall have become of age, with such directions as to the share or shares of the still disqualified proprietor or proprietors as to the Court shall seem fit and proper.

Course to be followed when one or more of the proprietors of an estate placed under Collector's charge may come of age.

XV. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Proceedings of Collector subject to control of superior Revenue Authorities.

XVI. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X shall, within six months from the date of the Certificate, deliver in Court an inventory of all the immoveable property belonging to the Minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. And the Public Curator and every such other Administrator shall furnish annually within three months from the first of May of the Christian era an account of the property in his charge, exhibiting the amounts received, disbursed, and invested on account of the estate, and the balance in hand. If any relative or friend of a Minor, or any public Officer by petition to the Court shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or Administrator,

Public Curator, &c., to furnish inventory and annual accounts.

Proceeding if accuracy of inventory or account be impugned.

Administrator, and inquire summarily into the matter and make such order thereon as it shall think proper, or the Court, at its discretion, may refer such petition to any subordinate Court for investigation and report.

Surplus funds to be invested by Public Curator, &c., in Public Securities on account of estate.

XVII. All sums received by the Public Curator or such other Administrator on account of any estate, in excess of what may be required for the current expenses of the Minor or of the estate, shall by him be invested on account of the estate, from time to time, in the Public Securities.

Powers of person to whom Certificate has been granted in the management of Minor's estate.

XVIII. Every person to whom a Certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Minor, and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Minor. But no such person shall have power to sell, alienate, mortgage, or otherwise incumber any immoveable property, or to grant a lease thereof for any period exceeding five years, without the sanction of the Civil Court previously obtained.

Relative or friend may sue for an account.

XIX. It shall be lawful for any relative or friend of a Minor at any time during the continuance of the minority to sue for an account from any Manager appointed under this Act, or from any person to whom a Certificate shall have been granted under the provisions of this Act, or from any such Manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit instituted under this Act after disqualification shall have ceased.

XX. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of Certificate.

XXI. The Civil Court for any sufficient cause may recall any Certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a fresh Certificate to the Public Curator or any other person as the case may be and

and may compel the person whose Certificate has been recalled to make over the property in his hands to his successor, and account to such successor for all moneys received and disbursed by him. The Court may also for any sufficient cause remove any Guardian appointed by the Court.

Removal of Guardian.

XXII. The Civil Court may impose a fine not exceeding five hundred Rupees on any person who may wilfully neglect or refuse to deliver his accounts or any property in his hands, within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to confinement in the Civil Jail until he shall consent to deliver such accounts or property.

Penalty for neglect or refusal to deliver accounts or property.

XXIII. The Civil Court may permit any person to whom a certificate shall have been granted under this Act not being the Public Curator, and any Guardian appointed by the Court, to resign his trust, and may give him a discharge therefrom on his accounting to his successor duly appointed for all moneys received and disbursed by him and making over the property in his hands.

Civil Court may permit resignation of trust, &c.

XXIV. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X shall be entitled to receive such commission not exceeding five percentum on the sums received and disbursed by him, or such other allowance to be paid out of the Minor's estate, as the Civil Court shall think fit.

Remuneration of Public Curator, &c.

XXV. Every Guardian appointed by the Civil Court under this Act who shall have charge of any male Minor shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such Minors shall be vested in the Civil Court.

Guardian of Minors under this Act to provide for their education.

XXVI. In the exercise of this superintendence and control, it shall be lawful for the Civil Court to direct that such Minor shall reside either with or without his Guardian at the Sudder Station of the District, or at any other place within the Presidency of Bombay, and shall attend for the purposes of education such

Civil Court may fix the residence and place of education of Minor.

such School or College as to the said Civil Court may seem expedient, and to make such provision as may be necessary for the proper care and suitable maintenance of the said Minor whilst attending such School or College.

Or in certain cases cause Minor to be educated privately.

XXVII. If it shall appear to the Civil Court inexpedient to place any such Minor at School or College, it shall, if the proceeds of the estate are sufficient for that purpose, cause such Minor to be educated by a private tutor properly qualified, either at the family residence of such Minor or at the Sudder Station, or elsewhere within the Presidency of Bombay, and in that case also the Civil Court shall have power to determine, from time to time, the place of residence of such Minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges and expenses incurred under this Act for education &c. to be paid out of the profits of Minor's estate.

XXVIII. All charges and expenses which may be incurred on account of any male Minor under the provisions of this Act, for College or School fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Civil Court.

Marriage of Minors.

XXIX. Every Guardian appointed under this Act who shall have charge of an unmarried Minor, shall pay all the necessary expenses of the marriage of such Minor out of the estate; provided that these expenses shall in no case, without the sanction of the Civil Court, involve the Minor's estate in debt.

Who to be held a Minor for the purposes of this Act.

XXX. For the purposes of this Act every person shall be held to be a Minor who has not attained the age of eighteen years.

Act not to authorize the appointment of Guardians of certain married women.

Guardianship during the minority of the husband of Minor when to cease.

XXXI. Nothing in this Act shall authorize the appointment of a Guardian of the person of a female whose husband is not a Minor, or the appointment of any person other than a female as the Guardian of the person of a female. If a Guardian of the person of a Minor be appointed during the minority of the husband of the Minor, the Guardianship shall cease as soon as the husband shall attain the age of majority.

XXXII. Nothing

Act not to interfere with Act XXXV of 1858.

XXXII. Nothing in this Act shall be held to interfere with the provisions of Act XXXV of 1858 (*for making better provision for the care of the Estates of Lunatics*).

Orders of the Civil Court open to appeal.

XXXIII. All orders passed by the Civil Court under this Act shall be open to appeal to the High Court at Bombay, and shall be subject to all the provisions contained in Section 366 of the Code of Civil Procedure.

Construction of words "Civil Court."

Powers of High Court not to be affected.

XXXIV. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original Civil jurisdiction in the District, and shall not include the High Court of Judicature; and nothing contained in this Act shall be held to affect the powers of the High Court of Judicature over the person or property of any Minor subject to its jurisdiction. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Number.

Gender.

ACT No. XXI of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st April 1864).

An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.

Preamble.

Whereas it is expedient to empower the Magistrates of Police in Calcutta to punish summarily certain offences in addition to those which they are now empowered so to punish; It is enacted as follows:—

Persons guilty of certain offences may be tried summarily by a Magistrate of Police.

I. Every case in which any person is charged before a Magistrate of Police in Calcutta with having within the limits of the said Town, or within the limits of the Port of Calcutta as those limits are or may hereafter be defined under Act XXII of 1855 (*for the regulation of Ports and Port-dues*), committed any offence under any of the provisions contained in Chapter XIV of the Indian Penal Code except Sections 280 and 281, may be heard and determined by such Magistrate in a summary way: and every such person shall on conviction by such Magistrate be punished in the manner provided by the Indian Penal Code for the punishment of the offence of which he shall be convicted. Provided that no Magistrate shall under this Act be competent to pass sentence in respect of any offence beyond the following limits, that is to say:— Imprisonment of either description not exceeding six months, or fine not exceeding two hundred Rupees, or both imprisonment and fine in cases in which both punishments are authorized by the Indian Penal Code. Provided also that the Magistrate may commit to the High Court for trial any such case which he may in his discretion think it proper so to commit.

Sections 62, 63, 308, 309, 310, 311, 312, 313 and 314 of the Code of Criminal Procedure extended to Calcutta.

II. Sections 62, 63, 308, 309, 310, 311, 312, 313 and 314 of the Code of Criminal Procedure are hereby extended to and shall have operation within the town of Calcutta and within the limits of the Port of Calcutta defined as aforesaid, and the words "Magistrate" and "Magistrate of a District" as used in the said

PRICE 6 PIES.

said Sections shall denote any Magistrate of Police in Calcutta who may be authorized in that behalf by the local Government.

Magistrate may take cognizance of offences without complaint made.

III. Any Magistrate of Police in Calcutta authorized as aforesaid may without any complaint take cognizance of any offence which he has power to hear and dispose of in a summary manner, which may come to his knowledge, and he may issue a summons, or, in cases where a warrant may issue, a warrant of arrest against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person.

Proceedure in such cases.

IV. Save as in this Act otherwise provided the procedure contained in Act XIII of 1856 (*for regulating the Police of the Towns of Calcutta, Madras, and Bombay*) as amended by Act XLVIII of 1860 (*to amend Act* XIII *of* 1856) shall be applicable to offences committed and charges made under this Act.

Commencement of Act.

V. This Act shall come into operation on the first day of May 1864.

Act may be extended by Governors in Council of Madras and Bombay.

VI. This Act may by an order of the Governor in Council of Fort St. George, or of the Governor in Council of Bombay respectively, to be published in the Official Gazette, be extended to the Towns and Ports of Madras and Bombay, and when so extended by such order, shall take effect in the Town and Port to which the order shall relate from the date of the publication of such order. When so extended to either the Town and Port of Madras, or the Town and Port of Bombay, this Act shall in all respects apply to such Town and Port as if the name of such Town and Port had appeared in this Act wherever the name of Calcutta appears.

MILITARY CANTONMENTS

ARRANGEMENT OF SECTIONS.

SECTION.

1. Interpretation.

2. Acts and parts of certain Regulations repealed.

3. Criminal jurisdiction of a Cantonment Magistrate.

4. Cantonment Magistrate to be deemed a Magistrate in charge of a Division of a District.

5. Assistant Cantonment Magistrates.

6. Small Cause Courts may be established in Cantonments.

7. Act XLII of 1860 to apply to all such Courts.

8. Acts establishing Military Courts of Requests to cease to have effect in Cantonments where Cantonment Magistrates are appointed to be Small Cause Court Judges.

9. Assistant Cantonment Magistrate may be invested with powers of a Small Cause Court Judge in suits for an amount not exceeding fifty Rupees.

10. Cantonment may be declared a Sub-District under Act XVI of 1864.

11. Act V of 1861 applicable to Police employed in Military Cantonments.
Administration of Police within Cantonments.

12. Extension of Section XXXIV, Act V of 1861, to Military Cantonments.

13. Service and execution, through Cantonment Magistrate, of process issued by Commanding Officer of a Cantonment.

14. Local Government may extend Act XX of 1856 to any Military Cantonment.

15. And may order division of Cantonments, &c.

16. And may prescribe rules for regulating expenditure of funds raised.

17. And may make Rules and Regulations to provide for certain matters hereinafter mentioned: the same to be general or special.

SECTION.

18. Rules and Regulations to be confirmed by Governor-General in Council.

19 For what matters Rules and Regulations may provide.

20. Trial of breaches of Rules and Regulations.

21. Amount of fine imposed how to be levied.

22. Imprisonment in case of amount not being levied.

23. Place of imprisonment.

24. Prosecutions, &c., under other Regulations, &c., not barred by this Act.

25. For protection of the health of the troops, Rules and Regulations made under the 7th Clause of Section XIX may be extended beyond limits of Cantonments.

26. How penalties may be imposed and enforced for breach of Rules and Regulations in extended limits.

27. Courts, &c., to take judicial notice of Rules and Regulations made under this Act.

28. Effect of Rules, &c., made under Section XVII of this Act, in respect of Regulations, &c., previously in force.

Proviso.

29 Penalty for the unauthorized sale of spirituous liquor, &c., to certain persons in Cantonments.

30. Spirituous liquor, &c., to be confiscated in certain cases.

31 Penalty on certain persons having in their possession within Cantonments more than a certain quantity of spirituous liquor, &c., without a permit.

32. Arrest of persons committing offence under Section XXX or XXXI and seizure of spirituous liquor, &c., in their possession.

33. Confiscation of intoxicating liquor, &c., in respect of which there may be a conviction or which may be in possession of the party convicted.

34 Property seized under this Act may be detained until party charged with offence is convicted or acquitted.

How to be disposed of.

35. Saving of articles sold or supplied for medicinal purposes.

SECTION.

36. Act not to interfere with jurisdiction of Courts Martial, &c.
Proviso.

37. Certain Acts done by Cantonment Magistrates before the passing of this Act confirmed.

38. Place of operation of this Act.

39. Operation of this Act may be extended by order of the Governor-General in Council to certain other places.

40. To what places the operation of this Act may be extended by the Governments of Madras, Bombay or the Punjab.

41. To what places the operation of this Act may be extended by the Government of Bengal, or of the North-Western Provinces.

42. Publication of Orders extending the operation of this Act.

43. Authority to which commitments shall be made and appeals preferred if Cantonment be not situate in district in which there is person exercising the powers of a Court of Session.

44. In certain cases powers vested in the Sudder Court under Act XLII of 1860 to be exercised by such authority as the Governor-General in Council shall declare.

45. In certain cases for purposes of Registration under Act XVI of 1864, the Governor-General of India in Council to declare what authorities to be deemed to be the District Registrar and the Registrar General.

46. Regulations and Acts inconsistent with this Act when to cease to have effect in Cantonments in Madras, Bombay and the Punjab.

BENGAL SECRETARIAT LIBRARY

ACT No. XXII of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 1st April 1864.)

An Act to make provision for the Administration of Military Cantonments.

Preamble

WHEREAS it is expedient to make provision for regulating the administration of Civil and Criminal Justice and the superintendence of Police and Conservancy, for protecting the public health within the limits of Military Cantonments, and for laying down local Rules and Regulations to be enforced within such limits; It is enacted as follows:—

Interpretation

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"British India"

The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106, entitled "*An Act for the better Government of India,*" except the settlement of Prince of Wales' Island, Singapore, and Malacca:

"Local Government"

The words "Local Government" denote the person or persons authorized by law to administer Executive Government in any part of British India:

"Section"

The word "Section" denotes a Section of this Act:

Number

Words importing the singular number include the plural number, and words importing the plural number include the singular number:

Gender

Words importing the masculine gender include females.

II. The

PRICE 2 ANNAS AND 6 PIES.

II. The Act and the parts of the Regulations in the Schedule hereunto annexed set forth, are hereby repealed to the extent in the said Schedule declared.

Act and parts of certain Regulations repealed.

III. When any person shall be invested by the local Government under the provisions of Section XXIII of the Code of Criminal Procedure, with the powers of a Magistrate within the limits of any Military Cantonment, such person shall be styled the Cantonment Magistrate, and within the limits of such Cantonment shall, subject to the control of the Magistrate of the District in which such Cantonment is situate, exercise the powers of a Magistrate as defined in the said Code, for the purpose of disposing of all cases arising within such Cantonment which the Magistrate of the District might dispose of, and for the commitment for trial before the Court of Session of the District or place in which such Cantonment is situate, of any person charged with any offence triable before the Court of Session, or for which the person charged shall appear to deserve a more severe sentence than a Magistrate is competent under the said Code of Criminal Procedure to award.

Criminal jurisdiction of a Cantonment Magistrate.

IV. The Cantonment Magistrate shall be considered a Magistrate in charge of a Division of a District within the meaning and for the purposes of the Code of Criminal Procedure.

Cantonment Magistrate to be deemed a Magistrate in charge of a Division of a District.

V. When any person shall be invested by the local Government under the provisions of Section XXIII of the Code of Criminal Procedure, with the powers of a subordinate Magistrate of the 1st or 2nd Class within the limits of any Military Cantonment, such person shall be styled the Assistant Cantonment Magistrate, and shall be subject to the Rules laid down for subordinate Magistrates in the said Code.

Assistant Cantonment Magistrates.

VI. The local Government may within the limits of any Military Cantonment establish a Court of Small Causes for the trial of suits of the nature described in Section III of Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established within his jurisdiction. The local Government shall from time to

Small Cause Courts may be established in Cantonments.

to time declare the pecuniary limit of the jurisdiction of every Court established under this Section, but such limit shall in no case exceed five hundred Rupees.

Act XLII of 1860 to apply to all such Courts.

VII. Every Court of Small Causes established under this Act shall be deemed to be a Court established under the said Act XLII of 1860, and all the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

Acts establishing Military Courts of Requests to cease to have effect in Cantonments where Cantonment Magistrates are appointed to be Small Cause Court Judges.

VIII. Whenever a Court of Small Causes is established in any Military Cantonment under the provisions of Section VI, the jurisdiction exercised in such Cantonment by any Officer under Act III of 1859 *(for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registrars of Deeds)* shall cease and determine, and so much of any Act as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall cease to have effect within the limits of such Cantonment.

[illegible]stant Cantonment Magistrate [illegible] invested with powers of a Small [illegible]urt Judge in suits for an [illegible] exceeding fifty Rupees.

IX. The local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court which is established under Section VI: provided [illegible]sistant Cantonment Magistrate shall have jurisdiction to try suits [illegible]t exceeding fifty Rupees.

[illegible]d a Sub-[illegible]

[illegible]ilitary Cantonment may be declared by the local Government to be a Sub-District for the purposes of Act XVI of 1864 (*to provide for the Registration of Assur-an*[illegible]t Magistrate of any Cantonment so declared shall be the [illegible]reof.

Act V of 1861 [illegible] employed in Milita[illegible]

XI. [illegible]ployed in any Military Cantonment shall be [illegible]ed to be part of the General Police Force [illegible] the local Government in whose Territories such Cantonm[illegible] the meaning of Section II, Act V of 1861 *(for the Regulatio*[illegible] the provisions of the said Act shall be applicable

applicable to such Force. The administration of the Police within the limits of any Cantonment in which there shall be a Cantonment Magistrate shall be vested in the District Superintendent subject to the general control and direction of the Commanding Officer of such Cantonment.

Administration of Police within Cantonments.

XII. The local Government may extend Section XXXIV of the said Act V of 1861 to any Military Cantonment situate in the Territories under such Government.

Extension of Section XXXIV, Act V of 1861, to Military Cantonments.

XIII. The Commanding Officer of a Cantonment may send any process requiring service or execution by any means not immediately at his disposal, to the Chief Police Officer in the Cantonment for service or execution through the Cantonment Police, and it shall be the duty of the said Chief Police Officer to serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

Service and execution, through Cantonment Magistrate, of process issued by Commanding Officer of a Cantonment.

XIV. It shall be lawful for the local Government to extend the provisions of Act XX of 1856 *(to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal)*, to any Mili[illegible] Cantonment to which a Cantonment Magistrate may be appointed, a[illegible] Cantonment Magistrate of any Military Cantonment to which th[illegible] shall be so extended may exercise all the powers vested in a M[illegible] that Act subject only to the control of the Magistrate of th[illegible] the local Government. If there be no Cantonment Magis[illegible] trate of the District shall carry out the provisions of t[illegible] extended as aforesaid.

Local Government may extend Act XX of 1856 to any Military Cantonment.

XV. It shall be lawful for the local Governm[illegible] Mili-tary Cantonment to [illegible] of the said Act XX of 1[illegible] e divided into any number of Cantonment divisions, [illegible] ature of the tax to be levied in each such division ac[illegible] the said Act.

And may order division of Cantonments, &c.

XVI. The local Government [illegible] or regulating the expen[illegible] purposes of this Act, of [illegible] ne said Act XX of 1856. Such funds may be expend[illegible] carrying out any measures under

And may prescribe rules for regulating expenditure of funds raised.

under any of the Rules and Regulations made under Section XVII of this Act in addition to or in lieu of the purposes described in Section XXXVI of the said Act XX of 1856.

And may make Rules and Regulations to provide for certain matters hereinafter mentioned the same to be general or special.

XVII. The local Government shall have power to make Rules and Regulations not inconsistent with the provisions of this Act or of any other law in force, to provide within the limits of any Military Cantonment for the matters hereinafter mentioned, and from time to time to repeal, or alter, such Rules and Regulation. The Rules and Regulations made under this Section may be general for all Military Cantonments in the Territories under the local Government making the same, or special for any one or more of such Cantonments, according as the local Government shall direct

Rules and Regulations to be confirmed by Governor-General in Council.

XVIII. No Rule or Regulation made or altered under the last preceding Section shall have effect until the same shall have been confirmed by the Governor-General of India in Council. A copy of every such Rule and Regulation when so confirmed, in English and in the Vernacular language chiefly in use, shall be hung up in some conspicuous part of the Office of the Cantonment Magistrate, or in such other place as the local Government or the Commanding Officer may direct.

For what matters Rules and Regulations may provide.

XIX. The Rules and Regulations made under Section XVII may provide—

1*st.*—For regulating, in cases in which the land within the limits of the Cantonment is the property of Government and the occupation and use of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed.

2*nd.*—For maintaining proper registers of immoveable property within the limits of the Cantonment, and for providing for the registration of transfers of such property.

3*rd.*—For regulating the manner in which houses within the limits of the Cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of Military Officers.

4*th.*—For

4th.—For regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the Cantonment, or for carrying out any Rules and Regulations passed under this Section, and the appointment of the necessary servants and establishments.

5th.—For the definition and prohibition of public nuisances.

6th. For the maintainance generally of the Cantonment in a proper sanitary condition; for the prevention and cure of disease; for the management and regulation of the public roads, of conservancy and drainage; for the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited; of slaughter houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations.

7th.—For inspecting and controlling houses of ill-fame and for preventing the spread of venereal disease.

8th.—For the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use.

9th.—For the execution and promotion of works of public utility and convenience.

10th.—For the registration of deaths, and for making and recording observations and facts important for the public health and interests.

11th.—For the imposition of penalties on persons convicted of the breach of any Rule or Regulation made under Section XVII, and for declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such Rules and Regulations, and the manner in which the investigation shall be conducted. Provided that no penalty so imposed shall exceed a fine of fifty Rupees, or imprisonment for eight days with or without labour.

Trial of breaches of Rules and Regulations.

XX. Breaches of any Rule or Regulation made under Section XVII shall be triable by the Cantonment Magistrate when there is such an Officer: but the local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate. The Magistrate of the

the District shall have no control over the Cantonment Magistrate, or over any Assistant Cantonment Magistrate, or any other person invested with such powers as herein aforesaid.

Amount of fine imposed how to be levied.

XXI. In every case in which an offender is sentenced to a fine for the breach of any Rule or Regulation made under Section XVII, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the Cantonment.

Imprisonment in case of amount not being levied.

XXII. If no such property sufficient for the payment of the fine can be found, the offender shall be liable to be imprisoned without labour for any term not exceeding one month.

Place of imprisonment.

XXIII. The imprisonment under Section XIX or Section XXII may be, if without labour, in the Civil Jail; and if with labour, in the Criminal Jail of the District.

Prosecutions, &c., under other Regulations, &c., not barred by this Act.

XXIV. Nothing in this Act nor in any Rule or Regulation made under Section XVII shall prevent any person from being prosecuted under any other Regulation or Act for any offence punishable under this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

For protection of the health of the troops, Rules and Regulations made under the 7th Clause of Section XIX may be extended beyond limits of Cantonments.

XXV. Whenever it shall appear necessary for the protection of the health of the troops in any Military Cantonment, it shall be lawful for the Governor General of India in Council to extend to any place outside the limits of such Military Cantonment, and in the vicinity of such Cantonment, all or any of the Rules and Regulations made for such Cantonment under Clause 7 of Section XIX, and to make any additional Rules and Regulations under the said Clause, and to define the limits around such Cantonment within which such Rules and Regulations or additional Rules and Regulations shall be in force.

XXVI. When

How penalties may be imposed and enforced for breach of Rules and Regulations in extended limits.

XXVI. When such Rules and Regulations, with any additional Rules or Regulations made as above, shall be extended under the last preceding Section to any place outside the limits of such Cantonment, it shall be lawful for the Governor General of India in Council to provide in the manner described in Clause 11 of Section XIX for the imposition of penalties for the breach of such Rules and Regulations, and for prescribing the manner in which, and the persons by whom, breaches of such Rules and Regulations shall be inquired into or be cognizable.

Courts, &c., to take judicial notice of Rules and Regulations made under this Act.

XXVII. All Courts and Magistrates shall take judicial notice of all Rules and Regulations made under Section XVII or Section XXV.

Effect of Rules, &c., made under Section XVII of this Act in respect of Regulations, &c., previously in force.

XXVIII. Whenever in any Military Cantonment, Rules and Regulations have been made under Section XVII, so much of any Regulation or Act as may be held to empower the Commanding Officer to make local Regulations regarding matters other than Military shall cease to have any effect in such Cantonment, and all local Regulations for any Military Cantonment which may have been made before the promulgation of the Rules and Regulations for such Cantonment made under said Section XVII, shall cease to have any effect. Provided that nothing in this Section shall be held to interfere with any Military authority vested in the said Commanding Officer under the Articles of War.

Proviso.

Penalty for the unauthorized sale of spirituous liquor, &c., to certain persons in Cantonments.

XXIX. If within any Military Cantonment, or within any limits around such Cantonment prescribed by the local Government, any person not amenable to the Articles of War, or any Sutler, or Camp-Follower, shall knowingly barter, sell, or supply, or offer or attempt to barter, sell or supply any spirituous liquor, wine, or intoxicating drug to, or for the use of, any European Soldier, or to or for the use of any European or Eurasian being a Camp Follower or a Soldier's wife, without a written license from the Officer Commanding or from some person having sufficient authority from the Officer Commanding to grant such license, the person so bartering, selling, or supplying, or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable on conviction to a fine not exceeding one hundred Rupees, or in the discretion of the Magistrate to imprisonment

imprisonment, with or without hard labor, for any period not exceeding three months, or in lieu of such fine or imprisonment to the punishment of whipping, as prescribed for offences under Section 11 of Act VI of 1864 *(to authorize the punishment of whipping in certain cases)*, subject to all the provisions of that Act.

Spirituous liquor, &c. to be confiscated in certain cases.

XXX. If any person convicted of an offence under the last preceding Section shall be again convicted of an offence under that Section, any spirituous liquor, wine, or intoxicating drug within such Cantonment or limits, which at the time of the commission of such subsequent offence shall belong to or be in the possession of such person, shall without further proof be deemed to be in the possession of such person for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

Penalty on certain persons having in their possession within Cantonments more than a certain quantity of spirituous liquor &c. without a permit.

XXXI. If any Camp Follower or Military Pensioner, or the wife or the widow of any Soldier, Camp Follower, or Military pensioner shall, within such Cantonment or limits remove, convey, or have, in his or her possession any quantity of spirituous liquor or wine exceeding one seer or quart, without a permit to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to a fine not exceeding fifty Rupees, and for any subsequent offence to a fine not exceeding one hundred Rupees, or to imprisonment with, or without hard labor, for any term not exceeding three calendar months: provided that nothing in this Section contained shall apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

Arrest of persons committing offence under Section XXX or XXXI and seizure of spirituous liquor &c. in their possession.

XXXII. If any person subject to the provisions of this Act shall be found committing any offence contrary to Section XXX or Section XXXI of this Act, any Police Office may immediately without warrant arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same, and any thing used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon without delay take such person together with the things so seized, before the Cantonment Magistrate or other Officer having jurisdiction to punish the offender.

XXXIII. In

Confiscation of intoxicating liquor, &c., in respect of which there may be a conviction, or which may be in possession of the party convicted.

XXXIII. In case of a conviction for any offence under Section XXX or Section XXXI of this Act, the Cantonment Magistrate, or other Officer, may adjudge any liquor, wine, or intoxicating drug in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with any thing used for the purpose of conveying, removing, or concealing the same or any part thereof, to be confiscated; and such Magistrate may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the Officer who shall have apprehended the Offender, or seized any of the goods, adjudged to be confiscated.

Property seized under this Act may be detained until party charged with offence is convicted or acquitted.

XXXIV. Anything seized under Section XXXII in respect of which any person shall be charged with an offence, may be ordered to be detained until the person in whose possession the same shall have been seized shall be convicted or acquitted of the offence charged. If the person shall be acquitted, any thing so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by the Cantonment Magistrate or other Officer to be confiscated, shall be restored: the remainder shall be dealt with as confiscated.

How to be disposed of.

Saving of articles sold or supplied for medicinal purposes.

XXXV.—The foregoing Sections shall not apply to the sale or supply of any article for medicinal purposes, by recognized Medical Practitioners, Chemists, or Druggists.

Act not to interfere with jurisdiction of Courts Martial, &c.

XXXVI. Nothing in this Act shall interfere with the jurisdiction of Courts Martial, or of Commanding Officers of Cantonments or of Regiments, Corps, or Detachments under Act XXIX of 1861 *(to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army)*, or under Act V of 1863 *(to amend Act XXIX of* 1861*)*, or with the provisions of any Statute for punishing mutiny and desertion of Officers and Soldiers in the service of Her Majesty in the East Indies, and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences. Provided that when a Cantonment Magistrate or other Officer not being the Commanding Officer shall have been

Proviso.

been vested by the local Government with power within the limits of any Military Cantonment to dispose of cases under any Rule or Regulation made under Section XVII, it shall not be competent to the Commanding Officer to exercise the powers described in Article 84 of the said Act XXIX of 1861 in respect of any case arising under such Rule or Regulation, when such Rules and Regulations have been passed for such Cantonment under Section XVII, and penalties shall have been laid down for their infringement. The said Rules and Regulations shall be held to be the Rules and Regulations mentioned in the said Article 84 of the said Act XXIX of 1861, and so much of the said Article as declares the penalties which may be inflicted for breach of Cantonment Regulations, shall cease from that time to have any effect in such Cantonment.

Certain Acts done by Cantonment Magistrates before the passing of this Act confirmed

XXXVII. All Acts done previously to the passing of this Act by Cantonment Joint Magistrates, or by persons acting under their authority or otherwise in any Military Cantonment in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid; and all such Officers and persons as aforesaid are hereby indemnified and discharged from liability in respect of such Acts.

Place of operation of this Act.

XXXVIII. This Act shall, save as hereinafter is provided, extend only to the Presidency of Fort William in Bengal.

Operation of this Act may be extended by order of the Governor-General in Council to certain other places.

XXXIX. The provisions of this Act may be extended by order of the Governor-General of India in Council to any place under the immediate administration of the Government of India, and to any place in India but not in British India in which British Troops are cantoned.

To what places the operation of this Act may be extended by the Governments of Madras, Bombay or the Punjab.

XL. The provisions of this Act may be extended by order of the Governor of Madras in Council, or by order of the Governor of Bombay in Council, and by order of the Lieutenant-Governor of the Punjab to any part of the territories subject to their respective Governments.

To what places the operation of this Act may be extended by the Government of Bengal, or of the North-Western Provinces.

XLI. The provisions of this Act may be extended by order of the Lieutenant-Governor of Bengal, or by order of the Lieutenant-Governor of the North-Western Provinces, to any part of the territories under their respective Governments not within the Presidency of Fort William in Bengal.

XLII. Every

Publication of Orders extending the operation of this Act.

XLII. Every order issued under Sections XXXIX, XL or XLI shall be published in the Official Gazette.

Authority to which commitments shall be made and appeals preferred if Cantonment be not situate in any district in which there is any person exercising the powers of a Court of Session.

XLIII. If in the Territories not subject to the general Regulations, or in any part of India not subject to the British Government, any person be invested with the powers of a Cantonment Magistrate within the limits of any Cantonment situated in any district or place in which there is no person exercising the powers of a Court of Session, the Governor-General of India in Council may direct to what authority the commitments shall be made and by what authority the appeals from the sentences and orders passed by such Cantonment Magistrate shall be heard and determined, and such commitments and appeals shall be heard and determined by such authority in the same manner as if the commitments had been made, or the sentences or orders appealed from had been passed, by a Magistrate within the jurisdiction of a Court of Session. The Governor-General of India in Council may also direct by what authority appeals from the sentences and orders passed in cases committed by such Cantonment Magistrate shall be heard and determined; and such appeals shall be heard and determined by such last mentioned authority in like manner as if the sentences and orders appealed from had been passed by a Court of Sessions.

In certain cases powers vested in the Sudder Court under Act XLII of 1860 to be exercised by such authority as the Governor-General in Council shall declare.

XLIV. If a Court of Small Causes shall be established under Section VI in any Military Cantonment in the Territories not subject to the general Regulations, or in any part of India not subject to the British Government, the Governor-General of India in Council shall declare what authority shall exercise the powers vested in the Sudder Court by the provisions of the said Act XLII of 1860.

In certain cases for purposes of Registration under Act XVI of 1864, the Governor-General of India in Council to declare what authorities to be deemed to be the District Registrar and the Registrar General.

XLV. If any Military Cantonment in any part of India not subject to the British Government shall be declared by the Governor-General of India in Council to be a Sub-District for the purposes of Registration under Act XVI of 1864, the Governor-General of India in Council shall declare what authorities shall be deemed to be the District Registrar and the Registrar General respectively with reference to such Military Cantonment and the Deputy Registrar thereof.

XLVI. From

Regulations and Acts inconsistent with this Act when to cease to have effect in Cantonments in Madras, Bombay, and the Punjab.

XLVI. From the date on which any Cantonment Magistrate shall begin to exercise jurisdiction under this Act in any Cantonment in the Territories subject to the Government of Madras, or to the Government of Bombay, or to the Lieutenant-Governor of the Punjab, so much of the Regulations and Acts for the time being in force in such part of the said Territories as is in any way inconsistent with or repugnant to any of the provisions of this Act shall cease to have effect in such Cantonment.

SCHEDULE.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation III. 1809...	Bengal Code..	For the support of the Police in the Cantonments and Military Bazars; for defining the powers of the Civil and Military Officers in the performance of that duty; and for fixing the local limits of the said Cantonments and Bazars..	Sections II and III.
Regulation XX. 1810 .	Bengal Code..	For subjecting persons attached to the Military Establishments to Martial Law in certain cases, and for the better government of the retainers and dependants of the Army receiving public pay on fixed Establishments, and of persons seeking a livelihood by supplying the Troops in Garrison, Cantonment, and Station Military Bazars, or attached to Bazars of Corps	So much of Section XII as declares that the persons therein mentioned shall be liable to be tried by a Native Court Martial for the offence stated. Also Sections XIII, XIV, XV, XVI, XVII, XVIII, and XXI.

Number and date of Act.		Title.	Extent of Repeal.
Act XVIII of 1853 . .	...	For regulating the sale of spirituous liquors, &c., in Cantonments.	The whole Act so far as it relates to the Bengal Presidency.

ACT No. XXIII of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 7th April 1864.)

An Act to amend the law relating to the Customs Duties on goods imported by Sea.

Preamble.

Whereas it is expedient to amend the law relating to the Customs Duties; it is enacted as follows:—

Act XXVI of 1863 repealed.

I. From and after the passing of this Act, Act XXVI of 1863 *(to amend Act XI of* 1862, *to amend Act X of* 1860, *to amend Act VII of* 1859, *to alter the Duties of Customs on Goods imported or exported by Sea)* shall cease to have effect, except as to any act done or liability incurred.

Customs Duties to be levied as prescribed in this Section.

II. From and after the passing of this Act, in lieu of the Customs Duties authorized in Act XI of 1862 (*to amend Act X of* 1860, *to amend Act VII of* 1859, *to alter the Duties of Customs on Goods imported or exported by Sea*) to be charged on Iron; on Wines and Liqueurs; on Porter, Ale, Beer, Cider, and other similar fermented liquors; and on Tobacco and on all articles not enumerated in the Schedule A annexed to the said Act XI of 1862, there shall be levied and collected, in conformity with the provisions of Act VI of 1863 *(the consolidated Customs Act)*, the following Customs Duties; that is to say;—

On Iron (which shall not be taken to include ironmongery, cutlery, or hardware) ...	One per cent. *ad valorem*:
On Wines and Liqueurs .	One Rupee the Imperial gallon:
On Porter, Ale, Beer, Cider and other similar fermented liquors ..	One Anna the Imperial gallon:
On Tobacco whether manufactured or not manufactured	Ten per cent. *ad valorem*:
On all other Articles not enumerated in this Act or in the Schedule A annexed to the said Act XI of 1862	Seven and a half per cent. *ad valorem*.

PRICE 3 PIES.

ACT No. XXIV of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 8th April* 1864).

An Act relating to the Administration of certain Districts under the Government of the Lieutenant-Governor of the North-Western Provinces.

Preamble.

WHEREAS certain Rules for the administration of Civil Justice and for the superintendence of the settlement and of the realization of the Public Revenue and of matters relating to rent in the Districts of Jhansi, Jaloun, and Lullutpore, were made by the Lieutenant-Governor of the North-Western Provinces, and came into operation on the twenty-eighth day of January and the seventh day of February 1862: and whereas the said Rules, so far as they relate to the administration of Civil Justice, were afterwards extended by an order of the Lieutenant-Governor of the North-Western Provinces to the Provinces of Kumaon and Gurhwal: and whereas it is expedient to prevent the validity of decisions, orders, and proceedings passed or held under the said Rules being questioned only by reason that the said Rules were not made in accordance with the provisions of the Indian Councils' Act 1861: and whereas it is expedient to make provision for the administration of the Districts and Provinces aforesaid and also of a tract of country in Dehra Dhoon in the North-Western Provinces known as Jounsar Bawur; it is enacted as follows:—

Rules relating to jurisdiction and procedure of Revenue Officers, &c., to be deemed valid from date of issue.

I. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces relating to the jurisdiction and procedure of the Revenue Officers, and for the superintendence of the settlement and of the realization of the Public Revenue, and of matters relating to rent, within the said Districts of Jhansi, Jaloun and Lullutpore, shall be deemed valid for all purposes from the date on which such Rules were issued.

II. The

PRICE 9 PIES.

Rules relating to the administration of Civil Justice to be deemed valid from date of issue until the coming into operation of this Act, and in part to continue of effect after such period.

II. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces for the administration of Civil Justice within the said Districts, and thereafter extended to the Provinces of Kumaon and Gurhwal as aforesaid, shall be deemed valid for all purposes from the date on which they were issued until this Act shall come into operation. So much of the said Rules as relates to the establishment of Courts of Civil Judicature, and provides for the trial of suits and appeals by Commissioners, Deputy Commissioners of Districts, Assistant Commissioners, Extra Assistant Commissioners, and Tehsildars, together with so much of the said Rules as relates to the periods of appeal from decisions and orders made by such Courts, shall continue to be in force after this Act shall have come into operation.

Validity given to all decisions, &c., before the coming into operation of this Act.

III. No decision, order, or proceeding of any Court or Officer under any of the said Rules, made and extended as aforesaid by the Lieutenant-Governor of the North-Western Provinces, shall be questioned on the ground of such order, or decision, having been passed, or of such proceeding having been held, before the date fixed for this Act to come into operation.

Proceedings in Civil suits how to be regulated.

IV. Except as in this Act is otherwise provided, the proceedings in Civil suits of every description between party and party, brought in the said Courts of Civil Judicature, shall be regulated by the Code of Civil Procedure.

In what Courts suits to be instituted.

V. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Power of Commissioner and Deputy Commissioner as to suits instituted in any subordinate Court.

VI. It shall be lawful for the Commissioner or for the Deputy Commissioner of a District to withdraw any suit instituted in any Court subordinate to the Court of such Commissioner or Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same.

Trial of suits for immoveable property situate within the jurisdiction of different Courts.

VII. If the suit be for land or other immoveable property situate within the local limits of the jurisdiction of different Courts, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of the land, or other immoveable property, in suit is situate

situate; but in such case the Court in which the suit is brought shall apply to the Deputy Commissioner of the District if the suit is brought in any Court subordinate to the Deputy Commissioner, or to the Commissioner if the Court in which the suit is brought is the Court of a Deputy Commissioner, for authority to proceed with the same.

Periods of appeal how to be reckoned

VIII. The periods of regular and special appeal prescribed in the Rules, which by Section II of this Act are to continue in force after this Act shall have come into operation, shall be reckoned from and exclusive of the day on which the judgment appealed against shall have been pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeals are allowed by the Code of Civil Procedure, shall be presented within the same period as appeals from decrees.

Act XIV of 1859 extended to certain districts and provinces

IX. Act XIV of 1859 (*to provide for the limitation of suits*) is hereby extended to the said Districts of Jhansi, Jaloun and Lullutpore, and to the said Provinces of Kumaon and Gurhwal, and shall take effect therein from the date on which this Act comes into operation, subject to the provision contained in Section XXIV of the said Act XIV of 1859, as regards pending suits instituted within two years from the date above mentioned.

Operation of Regulations and Acts may be extended to the same districts and provinces &c

X. It shall be lawful for the Lieutenant-Governor of the North-Western Provinces by notification in the Official Gazette, to extend to the said Districts and Provinces the operation of any Regulation or Act now in force in the Districts, under his Government, which are subject to the General Regulations, and to declare in whom any authority to be exercised under any Regulation or Act so extended shall be vested.

Administration of justice and collection of Revenue in tract known as Jounsar Bawur in whom to be vested.

XI. The administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the Public Revenue, and of all matters relating to rent, within the tract of country in the Dehra Dhoon called Jounsar Bawur, are hereby vested in such Officer or Officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance or of reference and appeal, appoint.

XII. The

Rules for administration.

XII. The Officer or Officers so appointed shall be guided by the Rules made before the date fixed for this Act to come into operation by the Lieutenant-Governor of the North-Western Provinces under the authority of Act XIV of 1861 (*to remove certain tracts of country in the Rohilcund Division from the jurisdiction of the tribunals established under the General Regulations and Acts*), for the guidance of the Officers appointed to administer the tracts of country described in the said Act.

Code of Civil Procedure may be extended to certain tracts.

XIII. The Lieutenant-Governor of the North-Western Provinces may, by notification in the Official Gazette, extend the Code of Civil Procedure to the said tract of country known as Jounsar Bawur and the tracts of country described in the said Act XIV of 1861.

Such tracts not to be held excluded by this Act or Act XIV of 1861 from the operation of the Indian Penal Code.

XIV. Nothing in this Act, or in the said Act XIV of 1861, shall be held to exclude the said tract of country known as Jounsar Bawur, or the tracts of country described in the said Act XIV of 1861, from the operation of the Indian Penal Code.

Operation of Act.

XV. This Act shall come into operation on the first day of May 1864.

MARRIAGE.

ARRANGEMENT OF SECTIONS.

PART I.

As to the persons by whom Marriage may be solemnized.

SECTION.

1. Marriage between persons professing the Christian Religion to be solemnized according to the provisions of this Act.

2. By whom to be solemnized.

3. Declaration and certificate no longer required.

4. Licenses to solemnize marriage by whom to be granted.

5. Marriages solemnized otherwise than according to this Act to be void.

6. Marriages already solemnized by certain persons to be deemed valid.

PART II.

As to the mode of solemnizing Marriages under this Act.

7. Notice of intended marriage to whom to be given.
Form of notice.
Proviso.

8. Publication of such notice.

9. Notice of intended marriage in private dwelling.

10. Notice when one of the parties intending marriage is under twenty-one years of age.

11. Publication of such notice.

12. Appointment of Senior Marriage Registrar

13. Issue of certificate of notice given and declaration made.
Proviso.

14. Certificate in certain cases not to issue until fourteen days after receipt of notice

SECTION.

15 Declaration to be made before issue of certificate.

16 Consent of parent or guardian when necessary.

17. What persons may prohibit issue of certificate by notice.

18. Minister how to proceed on receipt of such notice, &c.

19. Proceedings before issue of certificate in the case of Native Christians.

20. Form of certificate.

21. After issue of certificate, marriage may be solemnized.

22. Certificate to be void if marriage be not solemnized within two months.

23. Proof of marriage in accordance with the provisions of part I of this Act.

PART III.

Time for solemnizing Marriages.

24. Hours between which marriages to be solemnized.
Proviso.

PART IV.

As to the Registration of Marriages in India.

25. Marriages with certain exceptions to be registered as hereinafter prescribed.
Proviso.

26. Registration of marriages solemnized by Clergymen of the Church of England.

27. Quarterly returns to Archdeaconry.

28. Registration and returns of marriages by Clergymen of the Church of Scotland.

29. Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

30. Such entries to be signed and attested.

31. Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

32. Copies of certificates how to be entered and numbered.

SECTION.

33. Registrar to add number of entry of copy to the certificate, &c.

34. Custody and disposal of Register Book of marriages solemnized under Part V of this Act.

35. Transmission of certificates of certain marriages to Secretary of State for India.

36. Correction of errors.

37. Searches may be made and copies of certificates given.

38. Appropriation of fees.

39. Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof.

40. These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

PART V.

As to the Marriage of certain Native Christians.

41. Provision for marriages of certain Native Christians.

42. No notice necessary before marriage, but certificate of marriage may be given. Conditions.

43. On marriage (the conditions having been fulfilled), licensed person to grant a certificate thereof.

44. Licenses may be revoked.

45. Grant or revocation of license how to be notified.

46. Marriages performed under the provisions of. Section XLII to be valid.

47. Register Book to be kept.

48. Searches to be allowed in the Register Book.

PART VI.

As to Penalties.

49. Punishment for false oath, declaration, notice, or certificate, for procuring marriage.

50. Punishment for forbidding the ssue by a Marriage Registrar of a certificate by false representation.

SECTION

51 Punishment for a person, not duly authorized, solemnizing a marriage.

52. Punishment for solemnizing a marriage otherwise than between certain hours, &c.

53. Punishment for solemnizing marriage when either party is under age within a certain time after notice.

54. Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

55. Punishment for persons authorized under this Act, but not being Clergymen of the Church of England or of the Church of Scotland, solemnizing marriages without publication of notices, &c.

56. Punishment on unlicensed person pretending to grant certificate of marriage under Part V.

57. Punishment for making false entries.

58. Jurisdiction to punish offences punishable under this Act.

59. Code of Criminal Procedure applicable to investigations and committals under this Act.

60. Meaning of "Church of England."
And of "Church of Scotland."

61 Operation of Act.

ACT No. XXV. OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 9th April 1864).

An Act to provide further for the solemnization of Marriages in India of persons professing the Christian Religion.

Preamble.

Whereas it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion; It is enacted as follows:—

PART I.

As to the persons by whom Marriage may be solemnized.

Marriage between persons professing the Christian Religion to be solemnized according to the provisions of this Act.

I. From and after the first day of July 1864 no marriage between persons, one of whom is a person, or both of whom are persons, professing the Christian Religion, shall be solemnized, except in accordance with the provisions hereafter stated in this Act.

By whom to be solemnized

II. Marriages may be solemnized in India—

1st.—By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies, and customs, of the Church of which such person is a Minister.

2nd.—By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies, and customs, of the Church of Scotland.

3rd.—By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V of 1852 *(for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty entituled an Act for Marriages in India)* of the Governor-General of India in Council.

4th.—By

PRICE 4 ANNAS.

4th.—By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

5th.—By any person who, with respect to marriages between Native Christians, shall have received under the provisions of Part V of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

III. From and after the first day of July 1864, the declaration and certificate required by the Statute 58, Geo. III, cap. 84, and Act XXIV of 1860 *(for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland)* of the Governor-General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

IV. From and after the first day of July 1864 the Governor-General of India in Council, the Governors of Madras and Bombay in Council, and the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the territories subject to such Governor-General, Governors, and Lieutenant-Governors respectively.

Marriages solemnized otherwise than according to this Act to be void.

V. From and after the first day of July 1864, all marriages solemnized in India otherwise than in accordance with the provisions of Sections I and II of this Act, shall be null and void.

Marriages already solemnized by certain persons to be deemed valid.

VI. All marriages solemnized in India before the first day of July 1864 by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council, if not otherwise invalid, shall be deemed valid to all intents and purposes.

Part II.

As to the mode of solemnizing Marriages under this Act.

Notice of intended marriage to whom to be given. Form of notice.

VII. In every case of intended marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, otherwise than—

1st.—Under the provisions of the Statute 14 and 15 Vic., cap. 40, or of the said Act V of 1852 of the Governor-General of India in Council: or

2nd.—By

2nd.—By a Clergyman of the Church of England according to the rites, rules, ceremonies, and customs, of that Church: or

3rd.—By a Clergyman of the Church of Scotland according to the rites, rules, ceremonies, and customs, of that Church: or

4th.— By a person who has received a license to grant certificates of marriage between Native Christians, under the provisions of part V of this Act-

One of the parties shall give notice in writing according to the form prescribed by the Schedule (A) to this Act annexed or to the like effect, to the Minister of Religion whom he shall desire to solemnize the said marriage, and shall state therein the name or names, and the profession or condition, of each of the parties intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church, Chapel, or other place of, or generally used for, public worship, or the private dwelling in which the marriage is to be solemnized.

Proviso.

Provided that if either party shall have dwelt in the place stated in the notice during more than one calendar month, it may be stated therein, that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church or Chapel, or other building generally used for public worship, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, or Chapel, or other building generally used for public worship, unless he has received a special license authorizing him to do so from and under the hand and seal of the Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the Bishop of the Diocese may sanction.

Publication of such notice.

VIII. The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church, Chapel, or place of, or generally used for, public worship in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the said Church, Chapel, or place of, or generally used for, public worship in which it is intended that the said marriage shall be solemnized. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, Chapel, or place of,

or

or generally used for, public worship, he shall at his option either return the said notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate in such place of worship, who shall thereupon cause the same to be so published and affixed in the said Church, Chapel, or place of, or generally used for, public worship.

Notice of intended marriage in private dwelling.

IX. If it be intended that the marriage shall be solemnized not in a Church, Chapel, or other place of, or generally used for, public worship, but in a private dwelling, the Minister of Religion receiving the notice prescribed in Section VII shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

Notice when one of the parties intending marriage is under twenty-one years of age.

X. When one of the parties intending marriage (not being a widow or widower) is under twenty-one years of age, every Minister as aforesaid who shall receive such notice, and who shall not forthwith return such notice to the party delivering the same under Section VIII shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the Post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Publication of such notice.

XI. The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

Appointment of Senior Marriage Registrar.

XII. If there be more Marriage Registrars than one in any District, the local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, send or cause to be sent a copy of such notice to all the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, Chapels, or places of worship as aforesaid.

Issue of certificate of notice given and declaration made.

XIII. Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, on being required so to do by or on behalf of the party by whom the notice was given, and upon one of the parties intending marriage making

making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made. Provided no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

Proviso.

XIV. When by such declaration it appears, or when it is otherwise known to such Minister of Religion, that one of the the parties intending marriage, not being a widower or widow, is under twenty-one years of age, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

Certificate in certain cases not to issue until fourteen days after receipt of notice.

XV. Before any such certificate as aforesaid shall be issued by any such Minister, one of the parties intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or each of the parties, not being a widower or widow, is under the age of twenty-one years, that the consent of the person whose consent to such marriage is required by law has been obtained thereto, or that there is no person resident in India having authority to give such consent, as the case may be.

Declaration to be made before issue of certificate.

XVI. The father, if living, of any party under twenty-one years of age, such party not being a widower or widow, or if the father be dead the guardian or guardians of the person of the party so under age lawfully appointed, or one of them, and in case there be no such guardian then the mother of such party, shall have authority to give consent to the marriage of such party, and such consent is hereby required for the marriage of such party so under age, unless there be no person authorized to give such consent resident in India.

Consent of parent or guardian when necessary.

XVII. Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed

What persons may prohibit issue of certificate by notice.

subscribed by the person authorized as aforesaid, with his name and place of abode, and his or her character in respect of either of the parties, by reason of which he or she is so authorized.

Minister how to proceed on receipt of such notice, &c.

XVIII. If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate, and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the said marriage is not authorized by law so to do, or until the notice of the said prohibition be withdrawn by the person who gave the same.

Proceedings before issue of certificate in the case of Native Christians.

XIX. When any Native Christian about to be married takes a notice of marriage to a Minister of Religion, or applies for a certificate from such Minister, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, and if not, shall translate or cause to be translated the said notice or certificate to such Native Christian in the language of such Native Christian, or in some language which he understands.

Form of certificate.

XX. The certificate to be issued by such Minister as aforesaid, may be in the form prescribed by the Schedule (B) to this Act annexed, or to the like effect.

After issue of certificate, marriage may be solemnized.

XXI. After the issue of the certificate by such Minister of Religion, marriage may be solemnized between and by the parties therein described according to such form or ceremony as such Minister shall see fit to adopt. Provided that it be solemnized in the presence of at least two witnesses.

Certificate to be void if marriage be not solemnized within two months.

XXII. Whenever a marriage is not solemnized within two calendar months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and certificate thereof issued in the manner aforesaid.

XXIII. Provided

XXIII. Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the parties, or of the consent of any person whose consent is thereunto required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

Proof of marriage in accordance with the provisions of Part I of this Act.

PART III.

Time for solemnizing Marriages.

XXIV. Every marriage solemnized in India from and after the first day of July 1864, by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening. But the provisions of this Section shall not apply to a Clergyman solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from and under the hand and seal of the Bishop of the Diocese or from his Commissary. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the Bishop of the Diocese may sanction.

Hours between which marriages to be solemnized.

Proviso

PART IV.

As to the Registration of Marriages in India.

XXV. All marriages solemnized in India from and after the first day of July 1864, between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 of the Governor-General of India in Council, shall be registered in the manner hereinafter prescribed. Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

Marriages with certain exceptions to be registered as hereinafter prescribed.

Proviso.

XXVI. Every

Registration of marriages solemnized by Clergymen of the Church of England.

XXVI. Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule (C) to this Act annexed.

Quarterly returns to Archdeaconry.

XXVII. Every Clergyman of the Church of England shall send four times in every year returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of the Archdeaconry to which he shall be subject, or within the limits of which such Station or District shall be situated. Such quarterly returns shall contain all the entries of marriages contained in the said Register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Government at the Presidency in which such Archdeaconry shall be.

Registration and returns of marriages by Clergymen of the Church of Scotland.

XXVIII. Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the form prescribed in Section XXVI for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of such Church, returns similar to those prescribed in the preceding Section for Clergymen of the Church of England, of all marriages solemnized by him.

Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

XXIX. After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register

register such marriage in duplicate:—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form prescribed by the Schedule (D) to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Such entries to be signed and attested

XXX. The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the parties married, and shall be attested by two witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

XXXI. The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one calendar month from the time of the solemnization of the said marriage to the Marriage Registrar of the District in which such marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall cause the same to be copied into a book to be kept by him for that purpose, and shall transmit all the said certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Government of the Presidency or Lieutenant-Governorship within which he resides, together with the certificates from his own Marriage Register Book which he shall transmit under the twelfth Section of the said Statute 14 and 15 Vic., cap. 40, but distinct therefrom.

Copies of certificates how to be entered and numbered.

XXXII. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Registrar to add number of entry of copy to the certificate, &c

XXXIII. The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall

shall at the end of every month transmit the same to the Secretary to the Government of the Presidency, or Lieutenant-Governorship, as aforesaid.

Custody and disposal of Register Book of marriages solemnized under Part V of this Act.

XXXIV. The person solemnizing any such marriage as is provided for in Part V of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said District, who shall keep safely the same, and shall enter therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said District; and the person having the control of the book at the time when the same shall be filled, shall transmit the same to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall transmit the same to the Secretary to the Government at the Presidency as aforesaid, to be kept by him with the records of his Office.

Transmission of certificates of certain Marriages to Secretary of State for India.

XXXV. Provided that with regard to the marriages so certified, of which it may appear to the Governor-General of India in Council desirable that evidence shall be transmitted to England, the Secretary to the Government shall, at the end of every three calendar months in each year, send all the certificates of marriage sent to him as aforesaid during such three months, signed by him, to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths, and Marriages.

Correction of Errors.

XXXVI. Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may within one calendar month next after the discovery of such error, in the presence of the parties married, or, in case of their death or absence in the presence of two other credible witnesses who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof, and in case such certificate shall have been already transmitted to the Secretary to the Government of

of the Presidency or place within which he resides, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made and copies of certificates given.

XXXVII. Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

XXXVIII. All fees received by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a marriage not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof.

XXXIX. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Register or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

XL. Nothing contained in this Part of this Act shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852 of the Governor-General of India in Council.

XLI. **And**

Part V.

As to the Marriage of certain Native Christians.

Provision for marriages of certain Native Christians.

XLI. And whereas it is expedient to make provision for the marriage of certain Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 of the Governor General of India in Council are found not to be suitable, it shall be lawful for the local Government of any Presidency or place, or the Chief Commissioner of any Province, to issue a license to any person, authorizing him to grant certificates of marriage between Native Christians, being converts from any religion in India.

No notice necessary before marriage, but certificate of marriage may be given.

XLII. It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V of 1852 of the Governor-General of India in Council, or otherwise, and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act if the following conditions be fulfilled, and not otherwise:

Conditions.

1. The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years:

2. The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity:

3 Neither of the parties intending to be married shall have a wife or husband still living:

4. In the presence of the person so licensed and of at least two witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God, do take thee, C. D., to be my lawful wedded wife *(or husband)*," or words to the like effect:

5. That such declaration be made between the hours of six in the morning and seven in the evening.

XLIII. When

On marriage, (the conditions having been fulfilled,) licensed person to grant a certificate thereof.

XLIII. When in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid. in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received as conclusive evidence of such marriage having been performed, in any suit touching the validity of such marriage, and no evidence to prove the contrary shall be received in any such suit.

Licenses may be revoked.

XLIV. The local Government, or the Chief Commissioner, may at any time revoke any license granted by such Government or Chief Commissioner under Section XLI of this Act.

Grant or revocation of license how to be notified.

XLV. The grant or revocation of any license under Sections XLI and XLIV respectively of this Act shall be notified in the Official Gazette.

Marriages performed under the provisions of Section XLII to be valid.

XLVI. All marriages performed between Native Christians as aforesaid, in accordance with the provisions of Section XLII of this Act, shall be good and valid to all intents and purposes.

Register Book to be kept.

XLVII. A Register Book of all marriages of which certificates shall be granted under Section XLIII of this Act, shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the local Government shall from time to time prescribe, and true extracts therefrom duly authenticated shall be deposited at such places and at such times as the local Government shall direct.

Searches to be allowed in the Register Book.

XLVIII. Every person licensed under this Act to grant certificates of marriage and who shall have the custody of a Marriage Register Book under the last preceding Section, shall at all reasonable times allow search to be made in such Book in his custody, and shall give a copy certified under his hand of any entry

or

or entries in the same on the payment of the fees hereinafter mentioned: that is to say— for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

PART VI.

As to Penalties.

Punishment for false oath, declaration, notice, or certificate, for procuring marriage.

XLIX. Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852 of the Governor-General of India in Council, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in Section 193 of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation

L. Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in Section 205 of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for a person, not duly authorized, solemnizing a marriage.

LI. Whoever, not being authorized under Section II of this Act to solemnize a marriage shall, on or after the first day of July 1864, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or if the offender be an European or American, to penal servitude according to the provisions of Act XXIV of 1855 *(to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts.)*

LII. Whoever

Punishment for solemnizing a marriage otherwise than between certain hours, &c.

LII. Whoever shall, from and after the first day of July 1864, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time otherwise than between the hours of six in the morning and seven in the evening, or in the absence of at least two witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized under special licenses granted by the Bishop of the Diocese or by his Commissary.

Punishment for solemnizing marriage when either party is under age, within a certain time after notice.

LIII. Any Minister of Religion licensed to solemnize marriages under this Act, who shall knowingly and wilfully solemnize a marriage when one of the parties to such marriage, not being a widower or widow, is under twenty-one years of age, within fourteen days after the receipt by him of notice of such marriage, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V of this Act.

Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

LIV. Whoever, being a Marriage Registrar appointed under the provisions of the said Act V of 1852 of the Governor-General of India in Council, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the said Act V of 1852, without publishing or affixing in some conspicuous place the notice of such marriage as directed by the said Act; or after expiration of two calendar months after a certificate in respect of a marriage shall have been issued by him shall solemnize such marriage; or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the parties intending marriage (not being a widow or widower) is under twenty-one years of age, before the expiration of fourteen days after the receipt of such notice as is required by the said Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall issue any certificate, the issue of

of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Church of England or of the Church of Scotland, solemnizing marriages without publication of notices, &c.

LV. Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of Banns or under a license from the Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies, and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II of this Act, or after the expiration of two calendar months after the certificate shall have been issued by him; or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is under twenty-one years of age, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the Post or otherwise a copy of such notice to the Marriage Registrar, or if there be more Marriage Registrars than one to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act, by any person authorized to forbid the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

Punishment on unlicensed person pretending to grant certificate of marriage under Part V.

LVI. Whoever, not being licensed to grant a certificate of marriage under Part V of this Act, shall grant such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

LVII. Whoever

LVII. Whoever shall wilfully insert or cause to be inserted any false entry in any such Register Book, or such authenticated extract therefrom as is mentioned in Section XLVII of this Act, shall be liable to the punishment prescribed by Section 193 of the Indian Penal Code.

Punishment for making false entries.

LVIII. Offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the said Code of Criminal Procedure; provided that no European British subject shall be liable to be tried for any offence punishable under this Act except by one of Her Majesty's High Courts of Judicature in India. In cases beyond the limits of the Presidency Towns of Calcutta, Madras, and Bombay, charges against European British subjects for any offence under this Act shall be investigated, and the committal for trial shall be made under the provisions of Sections 39, 40, and 41 of the Code of Criminal Procedure, and the trial of European British subjects under this Act by any of the said High Courts shall be under the procedure by which the proceedings of the said High Courts are regulated.

Jurisdiction to punish offences punishable under this Act.

LIX. Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act. Provided that a summons shall ordinarily issue in the first instance, and provided also that offences punishable under this Act shall be bailable.

Code of Criminal Procedure applicable to investigations and committals under this Act.

LX. The words "Church of England" wherever used in this Act, shall mean the United Church of England and Ireland as by law established:

Meaning of "Church of England."

The words "Church of Scotland" wherever used in this Act, shall mean the Church of Scotland as by law established.

Meaning of "Church of Scotland."

LXI. This Act shall come into operation on the first day of July 1864.

Operation of Act.

Schedule

ACT No. XXV OF 1864.

SCHEDULE (A)—(See Section VI).

Notice of Marriage.

To *the Rev. John Brown*, a Minister of the *Free Church of Scotland, at Calcutta.*

I hereby give you notice, that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say),

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	20, *Hastings' Street.*	*More than a month.*		

Witness my hand, this *sixth* day of *July, one thousand eight hundred and sixty-four.*

(Signed) JAMES SMITH.

(The *Italics* in this Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.)

Schedule

ACT No. XXV of 1864.

SCHEDULE (B)—(See Section XX).

Registrar's Certificate.

I, *the Reverend John Brown, a Minister of the Free Church of Scotland at Calcutta in Bengal,* do hereby certify, that on the sixth day of *July* 1864, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith,* one of the parties (that is to say),

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts
James Smith	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*		*Minor.*	20, *Hastings' Street.*	*More than a month.*		

and that the declaration required by Section XV of this Act has been duly made by the said *(James Smith.)*

Date of notice entered *6th July* 1864.

Date of certificate given *20th July* 1864.

The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness

Witness my hand, this *Twentieth* day of *July one thousand eight hundred and sixty-four.*

(Signed) *John Brown,*
Minister of the Free Church of Scotland..

This Certificate will be void unless the marriage is solemnized on or before the 20*th* day of *September* 1864.

(The *Italics* in the Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.)

ACT No. XXV of 1864.

SCHEDULE (C)—(See Section XXVI).

Form of Register of Marriages.

Quarterly Returns
of
MARRIAGES,
for
The Archdeaconry of... { *Calcutta,* / *Madras,* / *Bombay,*

I, Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* do hereby certify, that the annexed are correct Copies of the Original and Official Quarterly Returns of Marriages within the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* as made and transmitted to me for the Quarter commencing the *First* day of *January* ending the *Thirty-first* day of *March*, in the Year of Our Lord One Thousand Eight Hundred and Sixty-four.

Signature of Registrar

Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay.*

MARRIAGES solemnized at { *Allahabad,* / *Barrackpore,* / *Bareilly,* / *Calcutta, &c., &c.*

When married.	Names of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of Marriage.	Father's Name and Surname.	By Banns or License.	Names of Witnesses present.	By whom married.
	Christian.	Surname.								
1864, 14th July.	*William John*	*Hastings*	...	*Bachelor*	*Upholsterer*	*Hastings' Street* ...	*Peter Hastings..*	*Banns* ...	*John Thomas Green. Thomas Hastings. Willm. Geo. Mitchell. Harriet Eliza Mitchell.*	*Henry Fisher. Senior Chaplain.*
	Sophia Ann	*Mitchell*	...	*Spinster*	.....	*Lower Circular Road*	*Geoff'ry Mitchell*			

SCHEDULE (D)—(See Section XXIX).

MARRIAGE REGISTER BOOK.

No.	When Married.			Name of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of Marriage.	Father's name and surname.
	Day.	Month.	Year.	Christian.	Surname.					
1	26th	July	1864	James ...	White ...	26 years	Widower	Carpenter	Agra...	William White.
				Martha..	Duncan ..	17 years	Spinster	.....	Agra ...	John Duncan.

Married in the Free Church of Scotland Church, Agra.

John Young, Minister of the Free Church of Scotland.

This Marriage was solemnized between us { *James White*, *Martha Duncan* } in the presence of us { John Smith. John Green. }

CERTIFICATE OF MARRIAGE.

No.	When Married.			Name of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of Marriage.	Father's Name and Surname.
	Day.	Month.	Year.	Christian.	Surname.					
1	26th	July.	1864	James ...	White ...	26 years	Widower	Carpenter...	Agra	William White.
				Martha...	Duncan...	17 years	Spinster	.....	Agra	John Duncan.

Married in the Free Church of Scotland Church, Agra.

John Young, Minister of the Free Church of Scotland.

This Marriage was solemnized between us { *James White*, *Martha Duncan*, } in the presence of us { John Smith. John Green. }

ACT No. XXVI of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th April 1864).

An Act to extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras, and Bombay, and to provide for the appointment of an increased number of Judges of those Courts.

Preamble.

WHEREAS it is expedient to increase the limit of the jurisdiction of the Courts of Small Causes held under Act IX of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay)*, and to increase the number of Judges of the said Courts: It is enacted as follows:—

Interpretation.

I. The words "Local Government" and "High Court" as used in this Act, shall bear respectively the same meaning as the words "Governor in Council" and "Supreme Court," as used in the said Act IX of 1850.

Courts held under Act IX of 1850 may take cognizance of suits for sums not exceeding one thousand Rupees.

II. The jurisdiction of the Courts held or to be held under the said Act IX of 1850 shall extend to the recovery of any debt, damage, or demand exceeding the sum of five hundred Rupees but not exceeding the sum of one thousand Rupees, and to all actions in respect thereof (except the several actions specified in the proviso in Section XXV of the same Act), provided that the cause of action shall have arisen or the defendant at the time of bringing the action shall dwell or carry on business or personally work for gain within the local limits of the jurisdiction of the Court.

Such Courts may take cognizance of suits for sums exceeding one thousand Rupees, if the parties consent.

III. If both parties shall agree by a Memorandum signed by them or by their Attornies and filed with the Clerk of the Court of Small Causes, that the said Court shall have power to try any action (not included in the proviso in Section XXV of Act IX of 1850), in which the debt or damage claimed or value of

PRICE 1 ANNA.

of the property in dispute whether on balance of account or otherwise shall exceed the sum of one thousand Rupees, then and in such case the said Court shall have jurisdiction to try such action.

Powers under Act VII of 1847 extended to recovery of arrears of rent not exceeding one thousand Rupees, and the Calcutta Court of Small Causes to exercise such powers.

IV. The powers and provisions of Act VII of 1847 *(to regulate distresses for small rents in Calcutta)* shall be extended to the recovery of all arrears of rent not exceeding one thousand Rupees, and the Judges of the Calcutta Court of Small Causes under Act IX of 1850 shall be empowered to exercise within their jurisdiction the extended powers of the said Act VII of 1847: and the said Act shall be construed as if, instead of Calcutta and the Settlement of Fort William in Bengal, the limits of the jurisdiction of the Court had been therein mentioned, and the Judges of the Calcutta Court of Small Causes under Act IX of 1850 instead of the Commissioners of the Court therein mentioned, and the amount of one thousand Rupees instead of one hundred Rupees, and the forms contained in the Schedule annexed to the said Act VII of 1847 shall be altered accordingly, and shall refer to Act IX of 1850 and to this Act instead of to Act VII of 1847.

Provisions of Section XCI, Act IX of 1850 extended to tenements not exceeding in value one thousand Rupees.

V. The powers and provisions of Section XCI of Act IX of 1850 are hereby extended so as to apply to the case of any person who shall hold or occupy any house, land, or tenement of which the value or the rent payable in respect thereof does not exceed the rate of one thousand Rupees by the year, and the said Section XCI of Act IX of 1850 shall be read as if the words "five hundred" were omitted, and the words "one thousand" substituted for them.

Provisions of Act IX of 1850 and all rules, &c., made in pursuance thereof, extended to demands under this Act.

VI. The several powers and provisions of the said Act IX of 1850 and all rules, orders, and regulations which have been or may be made in pursuance of the said Act, shall extend to all debts, damages, and demands which may be sued for in the said Courts exceeding the sum of five hundred Rupees, and to all proceedings and judgments for the recovery of the same, or otherwise in relation thereto respectively, as fully and effectually, to all intents and purposes, as the same respectively are now or may be applicable to debts, damages, and demands within the present jurisdiction of the said Courts.

VII. In

In what cases questions to be reserved for the opinion of the High Court.

VII. In any cause of an amount exceeding five hundred Rupees, the Judges of the said Courts of Small Causes shall reserve any question of law or equity or any question as to the admission or rejection of any evidence as to which they shall entertain any doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the High Court, and shall give judgment contingent upon the opinion of the said High Court, on a case which they shall thereupon be entitled to state to the said Court. If only two Judges sit together and shall differ in opinion, the question on which they differ shall be so reserved.

Security to be given in certain cases when question is reserved for the opinion of the High Court.

VIII. When judgment is given contingent upon the opinion of the High Court, the party against whom such judgment is given shall, unless he be willing to submit to such judgment, forthwith give security to be approved by the Clerk of the Court, for the costs of the reference to the High Court and for the amount of the judgment; provided nevertheless, that such security, so far as regards the amount of the judgment, shall not be required in any case where the Judge of the Court of Small Causes who tried the suit shall have ordered the defendant to pay the amount of such judgment into the hands of the Clerk of the said Court, and the same shall have been paid accordingly; and the said High Court may either order a new trial on such terms as it thinks fit, or may order judgment to be entered for either party as the case may be, and may make such order with respect to the costs of reserving the question and stating the same for their opinion, and otherwise arising thereout or connected therewith, as such High Court may think proper. And all orders made by the High Court under this Section shall be final.

Costs arising from the reserving the question to be at the discretion of the High Court.

No costs in cases brought in the High Court when verdict is for less than a certain amount.

IX. If any action shall after the passing of this Act be commenced in the High Court, for any cause other than those specified in Section C of Act IX of 1850, for which a summons might have been taken out from a Court held under the said Act IX of 1850 or under this Act, and in which such Court would have had jurisdiction, and if a verdict shall be found for the plaintiff for a sum less than one thousand Rupees if the said action is founded on contract, or less than three hundred Rupees if it is founded on wrong, the plaintiff shall have judgment to recover such sum only and no costs, and if a verdict shall not be found for the plaintiff, the defendant shall be entitled

to

to his costs as between Attorney and client, unless in either case the Judge who shall try the case shall certify that by reason of the difficulty, novelty, or general importance of the case, or of some erroneous course of decisions in like cases in the Court of Small Causes, the action was fit to be brought in the High Court.

No costs to be allowed in suit in High Court against Officer of Court held under Act IX of 1850, if verdict for no more than one thousand Rupees, unless Judge shall certify.

X. If any person shall bring any suit in the High Court in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court held under Act IX of 1850 or under this Act, or under color or pretence of the process of the said Court, and upon the trial of the action no greater damages shall be found for the plaintiff than the sum of one thousand Rupees, no cost shall be awarded to the plaintiff in such action unless the Judge shall certify in Court that the action was fit to be brought in the High Court.

Fees payable in the Courts of Small Causes in suits under this Act.

XI. There shall be payable in the Court of Small Causes at Calcutta, Madras, and Bombay respectively, in every cause of an amount to which jurisdiction is given to the said Court by this Act, the fees set forth in the Schedule hereto annexed, besides the sum of two annas in each Rupee of the amount sued for, so far as such amount does not exceed five hundred Rupees, and one anna in the Rupee so far as such amount exceeds five hundred Rupees, which fee shall be paid over to the same account as that to which the fees payable under Section XIX of Act IX of 1850 are paid over.

Local Governments, with the sanction of the Governor-General of India, to appoint as many Judges as may be necessary.

XII. Whereas by Section VIII of the said Act IX of 1850, provision is made for the appointment of so many persons as may be necessary not exceeding three, to be Judges of the said Courts of Small Causes respectively, it is hereby enacted that it shall be lawful for the local Government with the previous sanction of the Governor-General of India in Council, to appoint as many persons as may be necessary to be Judges of the said Courts respectively.

Fees payable to Barristers and Attornies in suits tried under this Act.

XIII. The fees to be taken by Barristers at Law and Attornies practising in the said Courts in cases brought within the jurisdiction given by this Act, shall be as follows:—an Attorney shall be entitled to have or recover a sum not exceeding fifty-one Rupees for his fees and costs, and in no case shall any fee exceeding eighty-five Rupees be allowed for employing a Barrister as Counsel in the cause. The expense of employing a Barrister or an Attorney, or both a Barrister and an Attorney,

Attorney, either by plaintiff or defendant, shall not be allowed as costs, unless by order of the Judge, and the Judges of the said Court shall determine in what cases such expenses shall be so allowed.

One of the Judges appointed under Act IX of 1850 to be styled First Judge; and to arrange the distribution of business among the Judges.

XIV. Of the Judges appointed under Section VIII of the said Act IX of 1850, the one who is a Barrister at Law or Advocate of one of the High Courts of India or of the Court of Session of Scotland shall be styled the First Judge. The First Judge shall make such arrangements as he shall think fit, with regard to the distribution of the suits and of the general business of the Court among the various Judges thereof: and he may vary such arrangements from time to time.

Code of Civil Procedure may be extended to Small Cause Courts.

XV. The Local Government may, with the sanction of the Governor-General of India in Council, declare that the whole or any part or parts of the Code of Civil Procedure shall be applicable to any Court held under Act IX of 1850 or under this Act and the procedure prescribed in the said Code or the part or parts thereof so declared to be applicable shall thereupon be the procedure followed in such Court: Provided that no right of appeal or review shall in any case be given by any declaration made under this Section.

This Act to be read as part of Act IX of 1850.

XVI. This Act and the said Act IX of 1850 shall be read and construed as one Act, as if the several provisions in the said Act contained, not inconsistent with the provisions of this Act, were repealed and re-enacted in this Act.

SCHEDULE OF FEES.

Sums not above.	Every Summons or Subpœna.		Warrant.	
Rs.	Rs.	As.	Rs.	As.
600	2	4	6	0
700	2	8	7	0
800	2	12	8	0
900	3	0	9	0
1,000	3	4	10	0

BENGAL SECRETARIAT LIBRARY

ACT No. XXVII of 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 28th November 1864).

An Act to substitute certain declarations for the oaths of qualification taken by Justices of the Peace.

Preamble.

Whereas cases have arisen wherein persons have brought forward conscientious objections to taking the several oaths hitherto administered to Justices of the Peace in order that they may be duly qualified to act under Commissions of the Peace; It is enacted as follows:—

Repeal of Section 1 of Act XVI of 1841.

1. Section 1 of Act XVI of 1841 is hereby repealed.

Justices of the Peace to be capable of acting as such on making certain declarations.

2. All persons who are or shall be nominated and appointed in any Commission of the Peace, shall be capable of acting as Justices of the Peace in every respect according to the terms of such Commission, upon making and subscribing before any other Justice of the Peace or the chief Civil Officer of any Station within the places in and for which any such Commission shall have issued, declarations to the following effect:—

"I declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria."

"I declare that I will truly and faithfully discharge the Office of a Justice of the Peace."

Subscriptions to such declarations where to be deposited.

3. The subscriptions of such persons to the said declarations shall be deposited and kept with the records in the Home Department of the Office of the Secretary to the Government in the province wherein such declarations shall have been made.

PRICE SIX PIES.

ACT No. XXVIII OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 28th November* 1864).

An Act to provide for the extension of Act XXI of 1856 *(to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal), to the provinces under the control of the Lieutenant-Governor of the Punjab.*

Preamble.

Whereas it is expedient to empower the Governor-General of India in Council to extend the provisions of Act XXI of 1856 (*to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal*), and of Act XXIII of 1860 (*to amend Act XXI of* 1856), to any province or place under the control of the Lieutenant-Governor of the Punjab; It is enacted as follows :—

Provisions of Act XXI of 1856 and of Act XXIII of 1860 may be extended to the Punjab.

1. It shall be lawful for the Governor-General of India in Council, by notification in the *Gazette of India*, to extend all or any of the provisions of the said Act XXI of 1856 relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and of the said Act XXIII of 1860, to any of the provinces or any part or parts thereof under the control of the Lieutenant-Governor of the Punjab.

Powers to be exercised under said Acts in what Courts and Officers to be vested.

2. The powers to be exercised under any of the provisions of the said Acts shall be vested in such Courts and Officers as the said Lieutenant-Governor may with the sanction of the Governor-General in Council appoint for the purpose.

Levy of Duties under said Acts, under orders of Punjab Government, legalized.

3. No proceedings at law shall be taken against any Officer, for any act done or omitted on or after the eighteenth day of April 1864 by virtue of any order of the Government of the Punjab heretofore made, directing the levy of any such Duty as is authorized by the said Acts XXI of 1856 and XXIII of 1860 to be levied.

PRICE SIX PIES.

A COLLECTION

OF

THE ACTS

PASSED BY THE

GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1865.

CALCUTTA:
O. T. CUTTER, MILITARY ORPHAN PRESS,
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1865.

TITLES

OF

ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL,

IN THE YEAR 1865.

ACT No. I. An Act to authorize the extension of certain Acts and Regulations to Territories not subject to the General Regulations.

— II. to provide for the maintenance of the Rural Police in the Territories under the government of the Lieutenant-Governor of the North-Western Provinces and elsewhere.

— III. relating to the rights and liabilities of Common Carriers.

— IV. to exempt the estates of deceased Officers and Soldiers delivered over to the Administrator General of Bengal, Madras, or Bombay, from the operation of the twenty-sixth Section of Act No. VIII of 1855.

— V. to provide for the solemnization of Marriages in India of persons professing the Christian Religion.

— VI. to continue Act No. XXXI of 1860 (relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases).

— VII. to give effect to Rules for the management and preservation of Government Forests.

— VIII. to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction.

— IX. to amend Act No. XVI of 1864 (to provide for the Registration of Assurances).

— X. to amend and define the Law of Intestate and Testamentary Succession in British India.

— XI. to consolidate and amend the Law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature.

— XII. to amend the Law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.

— XIII. to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original Criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.

Act No. XIV. An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.

— XV. to define and amend the Law relating to Marriage and Divorce among the Parsees.

— XVI. to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits.

— XVII. to amend certain Acts relating to the duties of Customs on goods imported and exported by Sea.

— XVIII. to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties).

— XIX. to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.

— XX. to amend the Law relating to Pleaders and Mookhtárs.

— XXI. to define and amend the Law relating to Intestate Succession among the Parsees.

— XXII. to amend Act No. XVIII of 1864 (to provide for the appointment of a Municipal Committee for the City of Lucknów).

— XXIII. to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.

— XXIV. to give effect to certain Warrants of Attorney and Cognovits.

— XXV. to amend the Law relating to the duties of Customs on goods imported and exported by Sea.

— XXVI. to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army).

— XXVII. to make temporary provision for the decision of Civil Appeals in the Districts within the Lieutenant-Governorship of the Punjab.

— XXVIII. to provide for the more speedy liquidation of Insolvent Traders' Estates in Bombay.

— XXIX. to amend the Pleaders, Mookhtárs, and Revenue Agents' Act, 1865.

— XXX. to define and sanction the rates which the Madras Irrigation and Canal Company is authorized to charge for the supply of water for purposes other than that of Irrigation.

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INDEX

TO THE

ACTS PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

IN THE YEAR 1865.

	Act.	Sec.
Abatement, of annuity given by a Will	X	162
of general legacies	X	287
of specific legacies	X	290
Acceptance, of a benefit given by a Will constitutes an election to take under the Will	X	173
(See *Election.*)		
Accused Person, committed or bailed for trial in a Presidency Town, entitled to copies of depositions	XIII	5
Acts, extension of, to Non-Regulation Provinces	I	
(See *Non-Regulation Provinces.*)		
Act, The Indian Succession, ...	X	1
Regimental Debts, 1863, not affected by Act X of 1865	X	330
Administrator General's, 1865, not affected by Act X of 1865	X	330
XI of 1841, Section 17 of, is not affected by Section 2 of Act III of 1859, nor by Sections 6, 7 and 8 of Act XXII of 1864	XI	48
I of 1846, repeal of, ...	XX	3
VI of 1848, Act XVII of 1865 does not affect the provisions of, ...	XVII	1
V of 1852, (see V of 65 Section 54), parts of Act V of 1865 do not apply to marriages solemnized under, ...	V	45
XVIII of 1852, repeal of, ...	XX	3
XX of 1853, repeal of, ...	XX	3
VIII of 1855, not affected by Act X of 1865	X	330
Act to exempt the estates of deceased Officers and Soldiers from the operation of Section 26 of, ...	IV	
XX of 1856, Act II of 1865 has no force in places under the operation of, ...	II	12
(See *Rural Police.*)		
III of 1859, Section 2 of, does not affect Section 17 of Act XI of 1841 ...	XI	48
VII of 1859, repeal of, ...	XVII	1
VIII of 1859 applies to suits in Courts of Small Causes	XI	47
X of 1859, Judge of Small Cause Court may be empowered to hear claims under, ...	XI	52
(See *Small Cause Courts.*)		
repeal of part of Section 71 of, ...	XX	3
"Revenue Office" in Act XX of 1865, applies to Collectors and Deputy Collectors trying suits under, ...	XXIX	5
XXIII of 1859, repeal of, ...	XVII	1
X of 1860, repeal of	XVII	1
XXVI of 1860 not affected by Act X of 1865	X	330
XXXI of 1860, Act to continue	VI	
XLII of 1860, references to, to be read as applying to Act XI of 1865 ...	XI	50
XXIX of 1861, amended	XXVI	1
X of 1862, Section 26 of, applies to suits in Courts of Small Causes ...	XI	47

	Act.	Sec.
(See Small Cause Courts.)		
Act X of 1862, Act to amend, ...	XVIII	
repeal of Section 33 of, ...	XVIII	1
Section 2 of Act XVIII of 1865 to be read in lieu of Section 33 of,	XVIII	1
addition to article 11 of Schedule B of, ...	XVIII	3
XVIII of 1865 to be read as part of, ...	XVIII	4
XI of 1862, repeal of, ...	XVII	1
XV of 1862, Deputy Commissioner in the Punjab may be invested with powers described in, ...	XIX	11
XVIII of 1862, repeal of Sections 47, 48, 49, 50, 51 and 52 of, ...	XII	2
the word "indictment" in, to include the word "charge"	XIII	7
XXIII of 1862, repeal of, ...	XVII	1
XXII of 1863, liability of owners of tramroads constructed under, not limited by special contract	III	7
(See Carriers.)		
XXV of 1863, repeal of, ...	XII	2
XVI of 1864, Act to amend, ...	IX	
addition to section 10 of, ...	IX	1
addition to Section 13 of, ...	IX	2
repeal of Section 25 of, ...	IX	3
repeal of Section 40 of, ...	IX	6
Act IX of 1865 to be taken as part of, ...	IX	9
XVIII of 1864, Act to amend,...	XXII	
repeal of Section 21 of, ...	XXII	1
Governor General of India in Council may extend, to any place under the immediate administration of the Government of India	XXII	2
Act XXII of 1865 to be taken as part of, ...	XXII	3
XXII of 1864, Sections 6, 7 and 8 of, do not affect Section 17 of Act XI of 1841	XI	48
Sections 6, 7 and 8 of, do not affect the jurisdiction of any Court of Requests convened under Section 103 of Statute 27 Vic., cap. 3	XI	49
XXV of 1864, repeal of, ...	V	3
II of 1865, has no force in any place to which Act XX of 1856 is extended ...	II	13
may be extended to any province under the Government of India or the Government of the Punjab	II	14
(See Rural Police.)		
V of 1865, parts of, do not apply to marriages solemnized under Statute 14 and 15, Vic. cap. 40, or Act V of 1852	V	45
VIII of 1865, may be extended to the High Courts at Madras and Bombay ...	VIII	3
IX of 1865, to be taken as part of Act XVI of 1864	IX	9
X of 1865, parts of, which do not apply to Parsees	XXI	8
does not affect the provisions of the Regimental Debts' Act, 1863...	X	330
does not affect the provisions of Act VIII of 1855	X	330
does not affect the provisions of the Administrator General's Act, 1865	X	330
does not apply to succession to the property of a Hindu, Muhammadan, or Buddhist	X	331
does not apply to a will made or an intestacy occurring before the 1st of January 1866	X	331

	Act.	Sec.
Act XI of 1865, does not affect the jurisdiction of any Court of Requests convened under Section 103 of Statute 27 Vic., cap. 3 ...	XI	49
references to Act XLII of 1860 to be read as applying to, ...	XI	50
XII of 1865, commencement of, ...	XII	15
may be extended to High Courts of Madras and Bombay ...	XII	16
XIV of 1865, commencement of, ...	XIV	24
may be extended to the province of Oude, but not so as to affect the provisions of Act XVI of 1865	XIV	25
XV of 1865, suits under, may be heard with closed doors	XV	38
stamps on plaints and petitions of appeal under, ...	XV	39
commencement of, ...	XV	53
XVII of 1865, does not affect the provisions of Act VI of 1848	XVII	1
XVIII of 1865, to be taken as part of Act X of 1862...	XVIII	4
XIX of 1865, commencement of, ...	XIX	25
XX of 1865, does not apply to certain persons	XX	44
when extended to the Punjab will not affect certain provisions of Act XXIII of 1865	XXIII	51
XXII of 1865, shall be read and taken as part of Act XVIII of 1864 ...	XXII	3
XXIII of 1865, certain provisions of, will not be affected by the extension to the Punjab of Act XX of 1865	XXIII	51
amended	XXVII	
ADEMPTION of legacies	X	139
of specific bequest of right to receive some thing from a third party...	X	141
pro tanto by testator's receipt of part of entire thing specially bequeathed	X	142
pro tanto by testator's receipt of part of fund of which a portion has been specifically bequeathed	X	143
when stock specifically bequeathed does not exist at testator's death	X	145
pro tanto when stock specifically bequeathed exists in part only at testator's death	X	146
when the thing bequeathed is to be received by the testator from a third person	X	149
ADMINISTRATION, with copy annexed of authenticated copy of will proved abroad	X	180
cannot be granted to a minor or a lunatic	X	189
entitles administrator to intestate's rights from moment of his death	X	191
does not validate intermediate acts of administrator	X	192
grant of, where executor has not renounced	X	193
granted to residuary legatee	X	196
on death of residuary legatee his representative has a right to, ...	X	197
when there is no executor or residuary legatee or representative of residuary legatee	X	19
order in which connections are entitled to, ...	X	200
granted to widow	X	201
persons associated with widow in, ...	X	202
grant of, when there is no widow, or she is excluded ...	X	203
deceased's kindred of equal degree equally entitled to, ...	X	204
right of widower to, ...	X	205

	Act.	Sec
ADMINISTRATION, granted to a creditor	X	206
rules for, when deceased has left property in British India ...	X	207
when no Will is forthcoming...	X	211
with the Will annexed to the attorney of an absent executor ...	X	212
to attorney of absent person who, if present, would be entitled to administer	X	213
to attorney of absent person entitled to administer in case of intestacy	X	214
to guardian of a minor	X	215
limited grant of, until one of several minor executors attains the age of eighteen	X	216
for use and benefit of a lunatic *jus habens*	X	217
pendente lite	X	218
limited to a particular purpose	X	220
limited to property in which a person has a beneficial interest ...	X	221
limited to a suit	X	222
limited to the purpose of becoming a party to a suit against administrator	X	223
limited to collection and preservation of deceased's property ...	X	224
granted to a person other than the person who, under ordinary circumstances, would be entitled to administration ...	X	225
subject to exception	X	226,227
of the rest of deceased's estate after administration has been granted subject to exception	X	228
of effects unadministered at the death of the executor ...	X	229
of effects unadministered	X	230
of unadministered part of deceased's estate after the expiration of a limited grant	X	231
application for, made to the Judge of a District in which the deceased had no fixed abode	X	241
conclusiveness of letters of, ...	X	242
conclusiveness of application for, if properly made and verified	X	243
grant of letters of, to be under the seal of the Court ...	X	255
stamp on letters of.	X	Sched.
ADMINISTRATION BOND, ...	X	256
assignment of	X	257
stamp on	X	Sched.
ADMINISTRATOR, defined	X	3
to make inventory of deceased's property	X	255,277
of effects unadministered, powers of, ...	X	273
during minority, powers of, ...	X	274
ADMINISTRATOR GENERAL, nothing in Act X of 1865 affects the rights of. ...	X	330
ADMINISTRATOR GENERAL'S ACT, ...	IV	
ADVOCATES, to whom Act XX of 1865 does not apply	XX	44
AFFIDAVIT (See *Verification*)		
AGENTS practising in the Revenue Offices (See *Revenue Agents.*)		
ALIMONY of Parsee wife, *pendente lite*	XV	33
permanent	XV	34

	Act.	Sec.
ALIMONY, payment of, to the wife or to trustee	XV	35
ALTERATION in an unprivileged Will	X	58
AMMUNITION, manufacture, importation, &c., of, ...	VI	
ANGLICAN, defined	V	4
ANNUITY created by Will, payable for life only	X	160
legatee may elect to take the money set aside for the purchase of, ...	X	161
created by Will shall abate as the other legacies	X	162
created by Will shall be satisfied before the residue is paid to the residuary legatee	X	163
time for commencement of, when no time is fixed in the Will ...	X	298
payable quarterly or monthly, time for commencement of, ...	X	299
dates of successive payments of, ...	X	300
apportioned share to be paid to representative of annuitant who dies between times of payment of, ...	X	300
APPEALS from orders made by District Judge under powers conferred by Act X of 1865	X	263
time for presentation of, in the Central Provinces	XIV	15
decisions from which there lie	XIV	18
to High Court from decisions of Courts established under Act XV of 1865	XV	42
APPOINTMENT, power of, defined	X	56
executed by general bequest	X	78
implied gift to objects of power in default of, ...	X	79
of executor	X	182
of Registrar for the purposes of the Parsee Marriage and Divorce Act, 1865	XV	7
ARMS and ammunition, manufacture, importation, &c., of, ...	VI	
ARRAIGNMENT on unsustainable charge	XIII	8
ARREST, penalty for vexatious, ...	VII	12
ARTICLES of War amended	XXVI	
ASSENT of executor necessary to complete legatee's title	X	292
ASSESSMENT of house tax for maintenance of Rural Police in the North-Western Provinces	II	2
Sections 12 to 15 of Regulation IX of 1833 applicable to, under Act II of 1865	II	4
complaint to Collector against	II	5
upon estates of sums for maintenance of Rural Police in the North-Western Provinces	II	6 & 8
may be altered from time to time	II	7
on Muáfí and Nuzerana estates for purposes of Rural Police, &c. ...	II	8
(See *Rural Police.*)		
ASSETS, distribution of, ...	X	320
ASSISTANT COMMISSIONER, meaning of the term, in Act XIV of 1865 ...	XIV	2
of the third class in the Central Provinces, jurisdiction of,	XIV	9
of the second class in the Central Provinces, jurisdiction of,	XIV	10
of the first class in the Central Provinces, jurisdiction of,	XIV	11
meaning of the term in Act XIX of 1865	XIX	2
with ordinary powers, jurisdiction of, ...	XIX	7
with special powers, jurisdiction of, ...	XIX	8
with full powers, jurisdiction of, ...	XIX	10
(See *Punjab.*)		

	Act.	Sec.
Associate Judge, to sit with Judge of High Court during the trial of persons tried under Commission	XIII	27
(See *Commission.*)		
Assurances, Act to amend the law relating to the registration of, ...	IX	
Attorney to whom Act XX of 1865 does not apply	XX	44
of a High Court may practise in any Court not a High Court ...	XX	46
Barrister, defined	XXIII	1
Bastard (See *Illegitimate child.*)		
Bequest may be void for uncertainty	X	76
power of appointment executed by a general, ...	X	78
to the "heirs," &c., of a particular person	X	80
to the "representatives," &c., or to the "executors and administrators" of a particular person	X	81
without words of limitation	X	82
in the alternative	X	83
to a person, words describing a class added to a, ...	X	84
to a class of persons under a general description only	X	85
two, made to the same person	X	88
residuary, ...	X	90
to a lineal descendant who dies in testator's life-time leaving descendants	X	96
to a described class of persons	X	98
to such members of a class as shall have attained a particular age ...	X	108
onerous, ...	X	109
contingent upon a specified uncertain event	X	111
to such of certain persons as shall survive at some period not specified ...	X	112
of a fund for certain purposes, some of which cannot be fulfilled ...	X	127
to an executor	X	128
of stock where testator has an equal or greater amount of stock of the specified kind	X	131
of money of which payment is postponed	X	132
of enumerated articles, when not specific	X	133
specific, to two or more persons in succession	X	134
not specific, to two or more persons in succession...	X	135
of a thing described in general terms	X	158
of the interest or produce of a fund	X	159
of annuity	X	160-163
(See *Annuity.*)		
not adeemed by subsequent provision for legatee	X	166
Conditional	X	113-124
upon an impossible condition	X	113
upon illegal or immoral condition	X	114
when the condition is considered to be fulfilled	X	115
on failure of prior bequest shall take effect, though the failure occurs in a manner not contemplated	X	116
unless the contrary appear from the Will	X	117
over, conditional on the happening or not happening of a specified uncertain event	X	118
such bequest of no effect unless condition is fulfilled	X	119

	Act.	Sec.
Bequest.		
Conditional.		
subject to prior bequest, invalidity of, does not affect the validity of the original bequest	X	120
may be made with the condition that it shall cease to have effect in case a specified uncertain event shall happen	X	121
validity of such condition	X	122
Void	X	99-105
if made by particular description to a person not in existence ...	X	99
subject to a prior bequest to a person not in existence	X	100
if the vesting of the thing bequeathed be delayed beyond the life-time of any person and the minority of the legatee	X	101
to a class with regard to some of whom it is inoperative	X	102
if intended to take effect after a prior bequest which is void for certain reasons	X	103
for religious or charitable uses	X	105
(See *Abatement, Ademption.*)		
Bigamy, punishment of Parsees for, ...	XV	5
Board of Revenue, defined	XX	2
may revoke sanction given to persons holding powers of Attorney	XX	36
to regulate fees payable by any party to his adversary's Revenue Agent	XX	37
Bombay, Act VIII of 1865 may be extended to the High Court at, ...	VIII	3
Act XII of 1865 may be extended to the High Court at, ...	XII	16
repeal of Regulations inconsistent with Act XX of 1865 on extension of that Act to, ...	XX	48
Act to provide for more speedy liquidation of Insolvent Traders' estates in,	XXVIII	
(See *Governor in Council.*)		
British India, meaning of the term, in Act XIII of 1865	XIII	2
X of 1865	X	3
XV of 1865	XV	2
Law of, applicable to cases of Intestate and Testamentary Succession	X	2
succession to immoveable property in, ...	X	5
acquisition of domicile in, ...	X	11
law of succession to moveables in, ...	X	19
Act XV of 1865 to extend to the whole of, ...	XV	53
Buddhist, Act X of 1865 does not apply to succession to the property of a, ...	X	331
Capital of testator's estate may be applied to satisfy annuities	X	163
Carriers, Act relating to the rights and liabilities of, ...	III	
not responsible for loss or damage of certain property unless its value and nature be declared by the sender...	III	3
may require payment for risk of carrying property of a certain nature if exceeding in value Rs. 100	III	4
must exhibit notice of rate of charge in place of business	III	4
money paid to, in consideration of risk, may be recovered if the property carried is lost or damaged	III	5
liability of, not limited by any public notice	III	6
not owners of tramroads, may limit their liability by special contract ...	III	6
owners of tramroads, cannot limit their liability by special contract ...	III	7

	Act.	Sec.
CARRIERS, owners of tramroads, are liable for loss or damage only when it is caused by negligence or wrongful act	III	7
when not protected from liability for loss or damage	III	8
CARRIERS' ACT, 1865	III	
CAVEAT against grant of probate or administration	X	251
form of, ...	X	252
after entry of, no proceeding to be taken without notice to the caveator...	X	253
stamp on, ...	X	Sched.
CENTRAL PROVINCES COURTS' ACT (See *Court.*)	XIV	
CERTIFICATE required by 58 Geo. III, cap. 84, and Act XXIV of 1860, no longer required	V	7
of notice given and declaration made, issued by Minister consenting to celebrate marriage	V	17
when issued in case of minority	V	18
prohibition, by person whose consent to a marriage is required, of issue of, by Minister	V	21
proceedings before issue of, in the case of intended marriage of Native Christians	V	23
to be issued by Minister	V	24
is void if marriage is not solemnized within two months after date of, ...	V	26
of marriage of which evidence is required in England ...	V	40
of marriage between Parsees	XV	6
CHALLENGE of Jurors in Presidency Towns, causes of, ...	XIII	19
Judge shall try any other than a peremptory, ...	XIII	20
CHARGE under the Government Forests' Act, 1865, must be instituted within six months after the commission of the offence	VII	17
to be delivered to Clerk of the Crown by Justice of the Peace or Magistrate who commits any person for trial before the High Court ...	XIII	3
to be recorded in the High Court after amendment by the Clerk of the Crown	XIII	4
persons committed for trial deemed to be brought before the High Court, and shall be arraigned at suit of the Crown	XIII	6
the word is included in the word "indictment" in Act XVIII of 1862 ...	XIII	7
nolle prosequi on unsustainable, ...	XIII	8
CHIEF COMMISSIONER OF THE CENTRAL PROVINCES.		
may declare grade to which a Tahsildar or Assistant Commissioner belongs	XIV	5
may give Naib Tahsildars jurisdiction up to 50 Rupees...	XIV	6
CHIEF COURT, defined	XXIII	1
CHIEF COURT OF THE PUNJAB.		
Act to amend the constitution of, ...	XXIII	
constitution of, ...	XXIII	2
rank and precedence of Judges of, ...	XXIII	3
tenure of office of Judges of, ...	XXIII	4
declaration to be made by persons appointed Judges of, ...	XXIII	5
the Judges shall appoint the Registrar of, ...	XXIII	6
appointment of ministerial officers of, ...	XXIII	7
dismissal of ministerial officers by order of, ...	XXIII	8
seal of, ...	XXIII	9
process issued out of, shall be stamped with the seal of, ...	XXIII	9
person who may appear and act as pleader of any suitor in, ...	XXIII	10
may suspend or revoke license of person appointed to act as pleader ...	XXIII	11

	Act.	Sec.
Chief Court of the Punjab.		
fees of pleaders, not Advocates of a High Court, are subject to the control of, ...	XXIII	12
is the Highest Court of appeal from the Civil and Criminal Courts in the Punjab	XXIII	13
extraordinary original Civil jurisdiction of, ...	XXIII	14
may withdraw suits or appeals from subordinate Courts, not being Courts of Small Causes or Courts of Cantonment Magistrates	XXIII	15
may call for records of certain cases	XXIII	16
special appeals from Courts in the Punjab lie to, ...	XXIII	17
procedure in, ...	XXIII	18
rules of law in, ...	XXIII	19
power of, to try European British subjects	XXIII	20
charge to be delivered to Registrar of, with commitment of European British subject	XXIII	21
may amend or alter the charge	XXIII	22
charge shall be recorded	XXIII	23
upon such charges, persons committed are deemed to be brought before,	XXIII	24
proceedings upon the charge shall be stayed, if charge appears clearly unsustainable	XXIII	25
place for holding sittings of, ...	XXIII	26
to give directions as to the place of trial of a European British subject	XXIII	27,28
trials of European British subjects before, shall be by Jury... ...	XXIII	29
summoning of Jurors to serve on trials before, ...	XXIII	30
parts of Section 380 of Criminal Procedure Code which do not apply to sentences of, ...	XXIII	33
part of Cap. 26 of the Criminal Procedure Code does not apply to sentences of, ...	XXIII	34
single Judge may reserve question of law for decision of, ...	XXIII	35
Criminal Procedure Code to apply to formation of Juries in,... ...	XXIII	36
to make rules for the exercise of its jurisdiction by one or more of its Judges	XXIII	43
to issue general rules of practice	XXIII	44
has jurisdiction in all proceedings pending in the Court of the Judicial Commissioner	XXIII	45
consisting of two Judges only, procedure on difference of opinion ...	XXIII	46
High Court to transmit its opinion on case referred to it by the, ...	XXIII	48
to keep registers and accounts	XXIII	49
single Judge may perform functions of, ...	XXIII	50
Chief Justice, meaning of the term, in Act XIII of 1865	XIII	2
XV of 1865...	XV	2
Chief Matrimonial Court, certain Districts shall be in the jurisdiction of, ...	XV	19
Children of intestate Parsee dying before the intestate (See *Parsee Intestate*) ...		
of Parsees whose marriage is the subject of suit, custody, &c., of ...	XV	44
settlement of wife's property for benefit of, ...	XV	45
Christians, marriages of, in India	V	
(See *Marriage.*)		
Native, defined	V	4
(See *Native Christians.*)		

	Act.	Sec.
CHURCH defined	V	4
CHURCH OF ENGLAND defined	V	4
CHURCH OF ROME defined	V	4
CHURCH OF SCOTLAND defined	V	4
CITATION to be issued before grant of administration to a legatee other than universal or residuary legatee	X	199
stamp on, ...	X	Sched.
CIVIL PROCEDURE CODE applies to suits in Courts of Small Causes	XI	47
(See *Small Cause Courts.*)		
applies to suits under Act XV of 1865	XV	40
CLERGYMAN of the Church of England.		
registration of marriages solemnized by, ...	V	30
to send quarterly returns of entries in Register to Archdeaconry ...	V	31
of the Church of Rome, registration of marriages solemnized by, ...	V	32
of the Church of Scotland, registration of marriages solemnized by,	V	33
CLERK OF THE CROWN.		
defined	XIII	2
Justice of the Peace or Magistrate who commits any person for trial before the High Court to deliver charge to, ...	XIII	3
to consider, amend, or alter the charge	XIII	4
to prepare lists of Jurors and special Jurors	XIII	15
has full discretion to prepare lists of Jurors	XIII	16
certain acts may be done by, which the Code of Criminal Procedure requires to be done by Court of Session	XIII	38
CODE of Civil Procedure.		
to apply to suits in Courts of Small Causes	XI	47
to apply to suits under Act XV of 1865	XV	40
CODICIL defined	X	3
discovered after grant of probate	X	185
COGNOVIT given before 1st January 1862 validated	XXIV	1.
after 14th July 1865 void	XXIV	5
COLLATERAL CONSANGUINITY defined	X	22
(See *Consanguinity.*)		
COLLECTOR defined	XX	2
may abate or remit assessment of house tax for the purposes of the Rural Police in the North-Western Provinces	II	5
to assess upon estates sums for the support of the Rural Police in the North-Western Provinces	II	6 & 8
(See *Rural Police.*)		
Judge of Small Cause Courts may be invested with powers of, ...	XI	52
COMMISSION authorising Judges of High Courts at Calcutta, Madras, and Bombay to sit elsewhere	XIII	22, 23 & 24
jurisdiction of Judges acting under, ...	XIII	22-24
High Court may allot jurisdiction to Judge acting under, ...	XIII	25
shall specify time during and place in which it shall remain in force...	XIII	26
appointment of associate Judge to sit with Judge of High Court during trials of persons tried under, ...	XIII	27
European British subject tried under, ...	XIII	33
trials under, to be by Jury	XIII	34
certain acts to be done by the Clerk of the Crown during trials under,	XIII	38
parts of the Code of Criminal Procedure which do not apply to the sentences of a Judge of the High Court acting under. ...	XIII	39, 40

	Act.	Sec.
COMMISSION, Judge acting under, may reserve any question for High Court ...	XIII	41
Criminal Procedure Code generally applicable to proceedings under,	XIII	42
COMMISSIONER in the Central Provinces.		
jurisdiction of, ...	XIV	13
transfer of suits to Court of, ...	XIV	20
COMMISSIONER in the Punjab, ...		
jurisdiction of, ...	XIX	12
may withdraw suits and appeals from Courts subordinate to him	XIX	15
COMMON CARRIERS defined	III	2
Act relating to the rights and liabilities of, ...	III	
(See *Carriers.*)		
COMMON JURY, after commencement of Act XIII of 1865 certain persons are no longer exempt from serving on, ...	XIII	9
special Jurors exempt from serving on, ...	XIII	14
seventy-two persons to be summoned to serve on, for each sessions	XIII	18
CONDITIONAL BEQUESTS	X	113-124
(See *Bequest.*)		
CONFISCATION of implements used in infringing rules for the preservation of Government Forests	VII	7
officer may seize timber liable to, ...	VII	8
procedure in respect of property seized as liable to, ...	VII	11
vesting of property in Her Majesty after, ...	VII	14
remission of, ...	VII	15
(See *Rules.*)		
CONJUGAL RIGHTS, suit for restitution of, between Parsees	XV	36
CONSANGUINITY defined	X	20
lineal, defined	X	21
collateral, defined	X	22
table of, ...	X	24
(See *Kindred.*)		
CONSENT of parent or guardian to minor's marriage	V	20
CONSTRUCTION of Wills	X	61-98
(See *Will.*)		
CO-SUITOR may appear for suitor, but cannot recover fee	XX	40
COURT, meaning of the word, in Act XV of 1865	XV	2
XX of 1865	XX	2
in the Central Provinces, grades of, ...	XIV	4
in which any suit shall be instituted in the Central Provinces ...	XIV	17
in which suits relating to Parsee marriages, shall be brought	XV	26
in the Punjab, grades of, ...	XIX	4
in which suits shall be instituted in the Punjab	XIX	13
(See *High Court, District Court.*)		
COURTS OF REQUESTS, jurisdiction of, is not affected by Act XI of 1865, nor by Sections 6, 7 and 8 of Act XXII of 1864... ...	XI	49
COURTS OF REVENUE, meaning of the term, in Act XVI of 1865	XVI	1
COURT OF SMALL CAUSES defined.	XI	1
(See *Small Cause Courts.*)		
CREDITOR entitled to legacy as well as debt	X	164
paid in part to bring such payment into account before sharing in the proceeds of deceased's immoveable property	X	284

	Act.	Sec.
CRIMINAL POWERS exercised by Courts of the 1st, 2nd, and 3rd grades in the Punjab	XIX	9
CRIMINAL PROCEDURE of High Courts' Amendment Act	XIII	
CRIMINAL PROCEDURE CODE to apply to formation of Juries for Punjab Chief Court	XXIII	36
CUSTOMS DUTIES, Act to amend certain Acts relating to, ...	XVII	
on Saltpetre, operation of Act XVII of 1865 on, ...	XVII	2
Act to repeal Act XVII of 1865 relating to, ...	XXV	1
DAMAGE OR LOSS, liability of Carriers for, ...	III	
(See *Carriers.*)		
DEBTS of deceased to be paid equally and rateably by executor	X	282
must be paid before legacies	X	285
DECLARATION required by 58 Geo. III, Cap. 84, and Act XXIV of 1860, no longer required	V	7
to be made by person intending marriage	V	19
issue by Minister of certificate of such declaration	V	17
issue of certificate in case of minority	V	18
to be made by Judge of Chief Court in Punjab	XXIII	5
DELEGATES under the Parsee Marriage Act.		
appointment of, ...	XV	21,22
considered to be public servants as defined in Penal Code ...	XV	23
selection of, ...	XV	24
determine questions of fact	XV	41
DEMONSTRATIVE LEGACY defined	X	137
when not adeemed	X	140
right under, when assets are sufficient to pay debts ...	X	289
DEPUTY COMMISSIONER in the Central Provinces.		
jurisdiction of, ...	XIV	12
to distribute business among the Courts subordinate to him	XIV	19
transfer of suits to Court of, ...	XIV	20
DEPUTY COMMISSIONER in the Punjab.		
jurisdiction of, ...	XIX	11
to distribute the business in the Courts subordinate to him	XIX	14
may withdraw suits from Courts subordinate to him ...	XIX	15
DEPUTY REGISTRAR to send abstracts of registered instruments affecting immoveable property to the District Registrar	IX	7
DISARMING, power of, ...	VI	
DISSOLUTION of Parsee marriage in case of absence for seven years	XV	29
remarriage after, ...	XV	43
(See *Parsee Marriage.*)		
DISTRESS, fines under Act XV of 1865 levied by, ...	XV	48
procedure until return is made to warrant of, ...	XV	49
DISTRIBUTION of intestate's property	X	29-42
of assets	X	320
(See *Intestate.*)		
DISTRICT, meaning of the word, in Act XIV of 1865	XIV	3
XIX of 1865	XIX	3
XX of 1865	XX	2
DISTRICT COURT, meaning of the term, in Act XIV of 1865	XIV	3
XIX of 1865	XIX	3
XX of 1865	XX	2
vakils who practice in, may practice in District Matrimonial Court	XV	25

	Act.	Sec.
District Judge defined	X	3
has jurisdiction in granting and revoking probates and letters of administration	X	235
powers of, in relation to the granting of probate and letters of administration	X	236
may order any person to produce testamentary papers ...	X	237
proceedings of, regulated by the Code of Civil Procedure ...	X	238
may interfere for the protection of property	X	239
may grant probate or letters of administration	X	240
may refuse grant of probate if the deceased had no fixed abode in the District	X	241
District Punchayats, saving of jurisdiction of, ...	XI	12
District Registrar to forward abstract of registered instrument affecting immoveable property to the General Register Office ...	IX	7
may be appointed to act as Registrar General	IX	8
Division, meaning of the word in Act XIV of 1865	XIV	3
XIX of 1865	XIX	3
Divisional Court, meaning of the term in Act XIV of 1865	XIV	3
XIX of 1865	XIX	3
Divorce granted to Parsee husband	XV	30
to Parsee wife	XV	30
when decreed	XV	32
Domicile	X	5—19
of deceased regulates succession to moveables	X	5
a person can have but one	X	6
of origin, of person of legitimate birth	X	7
of posthumous child	X	7
of illegitimate child	X	8
continuance of, ...	X	9
acquisition of, ...	X	10
not necessarily acquired by residence	X	10
acquisition of, in British India	X	11
not acquired merely by residence in a country as the representative of a foreign Government	X	12
continuance of, ...	X	13
minor's, follows domicile of the parent from whom he derived his domicile of origin	X	14
acquired by a woman on marriage	X	15
of wife follows her husband's, ...	X	16
when a minor can acquire a new, ...	X	17
acquisition of new, by lunatic	X	18
in absence of proof of, succession to moveable property in British India is regulated by the law of British India	X	19
the application of the moveable property of a deceased person to the payment of his debts is regulated by the law of the country in which he has his, ...	X	283
Duties (See *Customs*, *Stamp*.)		
Election, when it takes place	X	167
devolution of interest relinquished by person making, ...	X	168
rules relating to, not affected by testator's belief as to his ownership ...	X	169

	Act.	Sec.
ELECTION, bequest for a man's benefit how regarded for purpose of, ...	X	170
a person who takes no benefit directly under the Will is not put to his,	X	171
to take in opposition to the Will does not disqualify the person from taking a benefit under the Will	X	172
when acceptance of a benefit given by a Will constitutes, ...	X	173
inference of waiver of inquiry into circumstances which might influence,	X	174, 175
representatives may call upon legatee to make,...	X	176
postponement of, in case of disability	X	177
ENGLAND, Church of, defined	V	4
ERRORS in registration of marriages	V	41
ESTATES IN N. W. P., assessments on, for purposes of Rural Police	II	6-8
how paid and realized	II	9
(See *Rural Police.*)		
of deceased Officers and Soldiers exempted from the operation of Section 26 of Act VIII of 1855	IV	2
Maafee and Nuzerana (See *Maafee.*)		
EUROPEAN BRITISH SUBJECT.		
charged with an offence within the ordinary original Civil jurisdiction of High Court	XIII	28
charge against, has same effect as a charge under Criminal Procedure Code	XIII	29
proceedings may be stayed if charge unsustainable ...	XIII	29
custody of, pending directions of High Court	XIII	30
committed or bailed for trial, orders of High Court concerning, ...	XIII	31
Code of Criminal Procedure applies to the trial of, ...	XIII	32
tried under Commission	XIII	32
(See *Commission.*)		
Jury for trial of, ...	XIII	36
Jury for trial of, in the Punjab	XXIII	31
majority of jury necessary for verdict of guilty	XXIII	32
apprehended in the Punjab for offence committed in foreign territory ...	XXIII	37
EVIDENCE of marriage, certified copy of entry in Marriage Register is, ...	V	44
of Parsees...	XV	8
EXECUTOR defined	X	3
not disqualified as a witness	X	55
shall not take legacy as executor unless he shows intention to act ...	X	128
is deceased's legal representative for all purposes.., ...	X	179
appointed by the Will, probate can be granted to no one who is not ...	X	181
appointment of, ...	X	182
accrual of representation to surviving, ...	X	186
when right as, can be established	X	187
to recoup himself for payments made before probate or letters of administration revoked	X	262
of his own wrong	X	265
liability of, ...	X	266
powers of, in respect of causes of action surviving the deceased, and rents due at the time of his death	X	267
demands and rights which survive to and against, ...	X	268
has power to dispose deceased's property	X	269
purchase of deceased's property by, is voidable	X	270
powers of several may be exercised by one, ...	X	271

	Act.	Sec.
EXECUTOR, powers of, survive to survivors	X	272
to perform deceased's funeral	X	276
to show inventory of property, &c., within six months	X	254, 277
to show account of estate within one year	X	277
to collect property and debts due to deceased	X	278
to pay deceased's debts equally and rateably	X	282
not bound to pay legacies without indemnity to meet contingent liabilities not to pay one legatee in preference to another ...	X	286
	X	287
assent necessary to complete legatee's title	X	292
assent to specific legacy...	X	293
conditional assent	X	294
assent to his own legacy	X	295
assent to legacy gives effect to it from death of testator	X	296
not bound to pay a legacy until one year from the testator's death ...	X	297
who has paid a legacy under the order of a Judge may call on the legatee to refund if the assets are insufficient to pay all the legacies...	X	316
who has paid a legacy voluntraily cannot call for refund	X	317
liability of, for devastation	X	327
for neglect to get in any part of deceased's property ...	X	328
EXONERATION of legatee's immoveable property for which land revenue or rent is payable periodically	X	156
of specific legatee's stock in a Joint Stock Company	X	157
EXPENSES of deceased's funeral to be paid before all debts	X	279
of obtaining probate or letters of administration to be paid next after funeral expenses, &c.	X	280
EXTENSION of Acts and Regulations to Non-Regulation Provinces	I	
(See *Non-Regulation Provinces.*)		
FAILURE of gift in contemplation of death	X	178
FEE for special license for marriage in private dwelling	V	11
received by a Marriage Registrar to be paid over to Government ...	V	43
to person solemnizing a marriage not being a Marriage Registrar ...	V	43
for instrument or writing mentioned in Act X of 1865	X	329
for registry of marriage between Parsees	XV	6
of Pleaders and Revenue Agents	XX	37-39
FINANCIAL COMMISSIONER shall be deemed the highest Court of appeal with respect to suits cognizable by Revenue Courts in Oude	XVI	3
in the Punjab, exclusion of jurisdiction of, ...	XIX	23
temporarily invested with appellate powers of Judicial Commissioner in suits relating to land, &c. ...	XXVII	
FINE, under Act XX of 1865, subject to revision by High Court	XX	42
on person who, having authority to nominate watchman, neglects to do so...	II	11
under Act XV of 1865, levied by distress and sale	XV	48
FOREIGN TERRITORY, European British subjects apprehended in the Punjab for offences committed in.	XXIII	37
FORESTS wherein rights are vested in Her Majesty for the purposes of the Government of India	VII	
(See *Government Forests, Rules.*)		
FORM of grant of probate	X	254
of letters of administration	X	255
of warrant of commitment of European British subject for offence committed in foreign territory	XXIII	40

	Act.	Sec.
Funeral expenses and death-bed charges to be paid before all debts	X	279
General Legacy, abatement of, ...	X	287
(See *Bequest.*)		
Gift, implied, to the objects of a power in default of appointment	X	79
in contemplation of death	X	178
property transferable by, ...	X	178
may be resumed	X	178
fails in certain cases	X	178
Government, Local, (See *Local Government.*)		
Government of India, suits against, ...	XI	9
Government Forests, meaning of the term in Act VII of 1865	VII	1
Rules for the management and preservation of, may be made by the Local Government...	VII	3
(See *Rules.*)		
Government Forests' Act, 1865	VII	19
charges under, must be brought within six months after the commission of the offence	VII	17
extent of, ...	VII	18
Governor General of India in Council		
may extend the operation of Acts and Regulations to certain Provinces	I	1
may extend the provisions of Act II of 1865 to certain Provinces	II	14
may render certain lands subject to the provisions of the Government Forests' Act, 1865	VII	2
may exempt any tribe in British India from the operation of Act X of 1865	X	332
may commission Judges of High Court to sit in places other than the usual place of sitting	XIII	22
may appoint Associate Judge to sit with Judge of High Court sitting under Commission	XIII	27
may commission Baristers-at-law to hold sittings ...	XIII	44
(See *Commission.*)		
may reduce or remit stamp duties	XVIII	2
Governor in Council of Bombay.		
may commission Judges of High Court at Bombay to sit elsewhere than at usual place of sitting	XIII	24
may appoint Associate Judge to sit with Judge of High Court sitting under Commission	XIII	27
(See *Commission.*)		
——— of Madras.		
may commission Judges of High Court at Madras to sit elsewhere than at usual place of sitting	XIII	23
may appoint Associate Judge to sit with Judge of High Court sitting under Commission	XIII	27
(See *Commission.*)		
Grand Jurors, after the commencement of Act XIII of 1865, no persons shall be summoned to attend and serve as, ...	XIII	9
no person to be charged on presentment of, unless they were summoned before the commencemnet of Act XIII of 1865 ...	XIII	10

	Act.	Sec.
Grants of probate or letters of administration.		
errors in, may be rectified by the Court	X	232
may be amended if a codicil is discovered after the grant	X	233
revocation of, ...	X	234
(See *Probate.*)		
Grantee of probate or letters of administration alone can act as deceased's representative	X	260
Great Jail of Calcutta, certain persons confined in, shall be considered to be in custody of the Superintendent of the Presidency Jail ...	XII	12
Guardian, consent of, to minor's marriage	V	20
may in certain cases prohibit issue of certificate by Minister ...	V	21
Half Blood.	X	23 & 86
High Court.		
meaning of the term, in Act X of 1865	X	3
XI of 1865	XI	1
XII of 1865	XII	1
XIII of 1865	XIII	2
XV of 1865	XV	2
XX of 1865	XX	2
has concurrent jurisdiction with the District Judge in the exercise of powers conferred by Act X of 1865	X	204
reference to, by Small Cause Court	XI	22
decree contingent on opinion of, ...	XI	23
to fix early day for hearing reference	XI	24
parties may appear and be heard in person or by pleader ...	XI	25
decision of, on question referred, transmitted to Court referring the question	XI	26
costs of reference to, ...	XI	27
delivery to the Superintendent of the Presidency Jail of persons sentenced to imprisonment or death, or transportation by, ...	XII	5, 6
Act to amend Criminal Procedure of	XIII	
charges to be recorded in, ...	XIII	4
how persons committed or bailed for trial are brought before ...	XIII	6
powers of, respecting Jurors in the Presidency Towns	XIII	21
may allot jurisdiction to Judge acting under Commission ...	XIII	25
(See *Commission.*)		
persons entitled to practise in, may practise in Parsee Matrimonial Courts	XV	25
appeal from decision of Parsee Matrimonial Courts to, ...	XV	42
to make rules for Procedure of Parsee Matrimonial Courts ...	XV	51
to make rules for the qualification, admission, enrolment, &c., of Pleaders and Mookhtars	XX	4
to regulate the fees to be paid by any party to his adversary's Pleader	XX	37
cases referred to, under Act XXIII of 1865	XXIII	47
of Fort William. An Act to make valid the imprisonment of certain persons arrested under the process of, ...	VIII	
of Madras. Act VIII of 1865 may be extended to, ...	VIII	3
of Bombay. Act VIII of 1865 may be extended to, ...	VIII	3

	Act.	Sec.
HIGH COURT, an Act to amend the law relating to the custody of prisoners within the local limits of the jurisdiction of, ...	XII	
Advocates, Vakeels, Attorneys and Mookhtars practising in, ...	XX	44-46
HIGH COURT JUDGE acting under Commission.		
(See *Commission.*)		
HINDÚ, Act X of 1865 does not apply to succession to the property of any, ...	X	331
HOTCHPOT, children's advancements not to be brought into, ...	X	42
HOUSE TAX, for the support of the Rural Police in the N. W. P. by whom assessed and collected	II	2
not to exceed one Rupee per annum on each house	II	2
when due	II	3
the law relating to, is the same as the law relating to rent ...	II	3
no person to be ousted from his house for non-payment ...	II	3
complaints against proprietors for unlawful collection of, ...	II	3
complaint against assessment of, ...	II	5
Collector may abate or remit assessment of, ...	II	
(See *Rural Police.*)		
ILLEGITIMATE CHILD, domicile of origin of, ...	X	8
IMMOVEABLE PROPERTY, defined	X	3
abstract of registered instrument affecting, to be sent in duplicate by Deputy Registrar to the District Registrar who will keep one and send the other to the general Register Office	IX	7
in British India, succession to, is regulated by law of British India	X	5
income of, accumulable for a year	X	104
exoneration of, from land revenue or rent	X	156
situate in different Districts in the Central Provinces, suits for, ...	XIV	22
situate in Districts subject to different Commissioners in the Central Provinces, suits for	XIV	23
situate in different jurisdictions of a single District in the Punjab, suit for	XIX	17
situate in different Districts in the Punjab, suit for ...	XIX	18
in Districts subject to different Commissioners in the Punjab, suit for, ...	XIX	19
IMPLICATION, appointment of executor by necessary, ...	X	182
IMPRISONMENT of certain persons arrested under the process of the High Court of Fort William, Act to make valid, ...	VIII	
to be deemed as valid as if it had been in accordance with the Civil Procedure Code	VIII	1
no suit to lie against the Sheriff on the ground of the illegality of,	VIII	2
for offences under Act XV of 1865	XV	50
INCOME, direction to accumulate is void	X	104
INDEMNITY to debtor, ...	X	160
INDIA, Act to provide for marriage of Christians in, ...	V	
British, (See *British India.*)		
marriages in, (See *Marriage.*)		

	Act	Sec.
INDIAN Customs Duties' Act of 1865	XVII	
Marriage Act	V	
extent and commencement of, ...	V	2
Succession Act	X	
INDICTMENTS, provisions of Act XVIII of 1862 with regard to, apply to charges under Act XIII of 1865	XIII	7
INFANT. (See *Minor*.)		
INSANE PERSON. (See *Lunatic*.)		
INSOLVENT TRADER'S estates in Bombay, Act to provide for the more speedy liquidation of, ...	XXVIII	
INSTRUMENT or writing, stamps and fees for	X	329
INTEREST, when no time is fixed for payment of a general legacy	X	311
when a time has been fixed for payment of a general legacy ...	X	312
rate of, on legacies	X	313
not payable on arrears of annuity within the first year from the testator's death	X	314
on a sum to be invested to produce an annuity	X	315
refunding of legacies without, ...	X	325
INTERLINEATION in an unprivileged Will	X	58
INTESTACY	X	25-28
INTESTATE and Testamentary Succession, Law of, ...	X	
Succession among the Parsees	XXI	
(See *Parsee Intestate*.)		
INTESTATE'S PROPERTY, distribution of,		
(a) where he has left lineal descendants	X	29-33
where he has left a child or children only	X	30
where he has left a grandchild, but no child and no more remote lineal descendants	X	31
where he has left only lineal descendants of the same degree ...	X	32
where he has left lineal descendants of different degrees of kindred, and the persons through whom the more remote descend are dead ...	X	33
(b) where he has left no lineal descendants	X	34-42
if intestate's father be living	X	35
if his father be dead, and he has left a mother, brothers and sisters, but no child of a deceased brother or sister	X	36
if his father be dead and he has left a mother, brothers and sisters and a deceased brother's or sister's child	X	37
if his father, brothers and sisters are all dead, but he has left a mother, and a brother's or sister's child	X	38
if his brothers and sisters, all their children, and his father are dead, but his mother is living	X	39
if he has left a brother or sister and a child of deceased brother or sister but no parent	X	40
if he has left no parent, nor brother nor sister	X	41
when right to, can be established	X	190
INVALIDITY of marriage not solemnized according to Act V of 1865	V	9
of marriage contracted by a Parsee in the life-time of former husband or wife	XV	4
a Parsee contracting such marriage is liable to punishment for bigamy	XV	5

	Act.	Sec.
INVALIDITY of Will or bequest for uncertainty	X	76
of direction to accumulate the income from property	X	104
of bequest, if made by particular description to a person not in existence	X	99
subject to a prior bequest, to a person not in existence ...	X	100
if vesting of thing bequeathed be delayed beyond life-time of any person and the minority of the legatee ...	X	101
if made to a class with regard to some of whom it is inoperative for certain reasons	X	102
if intended to take effect after a prior bequest which is void for certain reasons	X	103
for religious or charitable uses	X	105
upon an impossible condition	X	113
upon illegal or immoral condition	X	114
subject to a prior bequest, does not affect the validity of the original bequest	X	120
(See *Bequest*.)		
INVENTORY made by executor or administrator	X	254, 255, 277
stamp on	X	Sched.
INVESTMENT of funds to provide for legacies	X	301-308
of sum when a legacy, not specific, is given for life	X	301
of amount of general legacy to be paid at a future time	X	302
of sum to produce an annuity	X	303
JAIL, Great, of Calcutta (See *Great Jail*.)		
JUDGE, meaning of the word in Act XI of 1865	XI	1
XIII of 1865	XIII	2
XX of 1865	XX	2
XXIII of 1865	XXIII	1
acting under Commission (See *Commission*.)		
District (See *District Judge*.)		
JUDICIAL COMMISSIONER in the Central Provinces.		
jurisdiction of, ...	XIV	14
may transfer suits from one subordinate Court to another	XIV	21
JUDICIAL COMMISSIONER in the Punjab.		
may withdraw suits and appeals from Courts subordinate to him, other than Courts of Small Causes or Courts of Cantonment Magistrates	XIX	16
JUDICIAL SEPARATION of Parsee husband and wife, grounds of, ...	XV	31
when decreed	XV	32
JURISDICTION of District Judge in granting and revoking probates and letters of administration	X	235
of Courts in the Punjab (See *Punjab*.)		
JURORS, lists of, ...	XIII	12-15
in the Presidency Towns	XIII	21
summoning of, to serve on trials under Commission, ...	XIII	35
number of, on trials under Commission	XIII	37
majority necessary for a verdict of guilty	XIII	37
JURY, trials under Commission to be by, ...	XIII	34
to serve on trials under Commission	XIII	35

	Act.	Sec.
JURY, for trial of European British subject	XIII	36
for trial of European British subject in Punjab	XXIII	31
majority required for verdict of guilty	XXIII	32
Criminal Procedure Code to apply to formation of, in Punjab Chief Court	XXIII	36
JUSTICE OF THE PEACE or Magistrate who commits any person for trial before the High Court, to deliver charge to Clerk of the Crown	XIII	3
KINDRED	X	20-24
defined	X	20
table of, ...	X	24
(See *Consanguinity*).		
LAND, meaning of the word in Act XVI of 1865	XVI	1
Act XIX of 1865	XIX	2
in the Province of Oudh, suits in respect of, which are cognizable by the Courts of Revenue	XVI	2
Courts in which suits relating to, shall be instituted	XVI	4
procedure in suits relating to, ...	XVI	7
LAPSE of legacy	X	92
LAPSED SHARE, being part of the general residue, goes as undisposed of ...	X	95
LEGACY, to a person who attests the Will is void	X	54
given in general terms, vesting of, ...	X	91
lapses if legatee does not survive testator	X	92
does not lapse if one of two joint legatees die before testator ...	X	93
unless it be given in words which show that the testator intended that the shares should be distinct	X	94
to lineal descendant does not always lapse when he dies before the testator	X	96
to one person for the benefit of another does not lapse on the death, in the testator's life-time, of the person to whom the bequest is made ..	X	97
vesting of, where legatee is not entitled to immediate possession ...	X	106
vesting of, when contingent on specified uncertain event	X	107
executor shall not take, unless he manifests an intention to act ..	X	128
specific, defined	X	129
of a sum certain not specific merely because the stocks, &c., in which it is invested are described	X	130
directed to be paid out of a fund part of which is the subject of a specific legacy	X	138
ademption of, ...	X	139-143
(See *Ademption*).		
charged on a fund part of which is the subject of a specific legacy, when testator has received part of the fund and the remainder is insufficient to pay both legacies	X	144
to a creditor not taken as satisfaction of debt	X	164
to a child not taken as satisfaction of portion	X	165
debts must be paid before any, ...	X	285
abatement of, ...	X	287-290
(See *Abatement*).		
treated as general for purpose of abatement	X	291
time for payment of, ...	X	297
rate of interest on, ...	X	313
refunding of, ...	X	316-326
(See *Refund, Specific*).		

	Act.	Sec.
LEGAL REPRESENTATIVE of deceased.		
(See *Executor*).		
LEGATEE loses his legacy if he attests the Will...	X	54
does not lose his legacy by attesting a Codicil confirming the Will ...	X	54
can take nothing by an onerous bequest unless he accepts it fully ...	X	109
may accept one and refuse the other of two separate bequests ...	X	110
rendering impossible an act on the non-performance of which the legacy is to go over	X	123
must perform condition within specified time, unless the delay be caused by fraud	X	124
may receive unconditionally a fund bequeathed to him, although the Will directs that it is to be enjoyed in a particular manner	X	125,126
accepts specific legacy subject to any pledge or lien	X	154
of annuity is entitled to it for his life only	X	160
may take an annuity or money set apart for the purchase of an annuity ..	X	161
payment into Court of legacy to minor, ...	X	308
of specific legacy is entitled to the clear produce thereof from the testator's death	X	309
under a general residuary bequest is entitled to the produce of the residuary fund from testator's death	X	310
when not obliged to refund	X	322
unsatisfied, may proceed against executor if he is solvent	X	323
limit to refund by one, to another, ...	X	324
residuary, ...		
(See *Residuary Legatee*).		
LEGITIMATE child, domicile of origin of, ...	X	7
LETTERS of Administration not granted till fourteen days after the intestate's death	X	258
(See *Administration*).		
LIABILITY of carrier for loss or damage, if the property is declared to exceed Rs. 100 in value	III	5
of carrier for loss or damage not limited by public notice	III	6
may be limited by special contract	III	6
of owner of tramroad under Act XXII of 1863 not limited by any special contract	III	7
of carrier for loss or damage arising from negligence	III	8
(See *Carriers*).		
LICENSE to solemnize marriages, by whom granted	V	8
special, for marriage in private dwelling	V	11
marriages solemnized under, ...	V	58
LIEUTENANT-GOVERNOR defined	XXIII	1
of the N. W. P. may extend the operation of Acts and Regulations to certain Provinces ...	I	2
may extend provisions of Act II of 1865 to certain Provinces	II	13
of the Punjab may extend the operation of Acts and Regulations to certain Provinces ..	I	2
may extend provisions of Act II of 1865 to certain Provinces	II	14
special order is full authority for trial of any person	XXIII	41

	Act.	Sec.
LIMITATION OF SUITS, under Act VII of 1865	VII	16
the rules of, do not apply to certain suits relating to under-tenures cognizable in a Revenue Court in Oudh ..	XVI	5
revival of suits dismissed on ground that they were barred by the rules of, ...	XVI	6
(See *Under-tenures, Oudh*).		
LIMITED GRANTS		
(See *Probate*).		
LINEAL CONSANGUINITY	X	21
(See *Consanguinity*).		
LIST of Jurors to be prepared by the Clerk of the Crown	XIII	15
to be published in the official Gazette	XIII	17
LOCAL GOVERNMENT, meaning of the term in Act V of 1865	V	4
VII of 1865	VII	1
X of 1865	X	3
XI of 1865	XI	1
XV of 1865	XV	2
XX of 1865	XX	22
to determine how and when assessments are to be paid ...	II	9
(See *Rural Police*).		
may render certain lands subject to the provisions of the Government Forests' Act, 1865	VII	2
may make rules for management and preservation of Government Forests	VII	3
may prescribe punishments for infringement of rules for the preservation of Government Forests	VII	5
(See *Rules*).		
to fix office for deposit of declaration of domicile	X	11
to make regulations for inspection and preservation of Wills...	X	259
may extend the jurisdiction of any Court of Small Causes ...	XI	7
suits against, ...	XI	9
may invest any person with powers of Judge of Small Cause Court	XI	15
may invest Registrar with powers of Small Cause Court Judge	XI	40
may invest any person with powers of a Commissioner or Deputy Commissioner in the Central Provinces ...	XIV	16
Governor General may invest the Chief Executive Officer of any part of British India with certain powers of, ...	XV	52
may invest any Tahsildar in the Punjab with power to try suits not exceeding Rs. 300 in value	XIX	5
may invest a Naib Tahsildar with powers of Tahsildar ...	XIX	6
may invest a Deputy Commissioner in the Punjab with the powers described in Act XV of 1862	XIX	11
may invest any Officer with the powers of a Deputy Commissioner or Commissioner in the Punjab	XIX	20
may invest any special Officer with the powers of a Commissioner, Deputy Commissioner, Assistant Commissioner, or Tahsildar in the Punjab	XIX	21
may invest the Financial Commissioner with the powers of the Judicial Commissioner in the Punjab	XIX	22

	Act.	Sec.
Loss or damage, carrier not responsible for, if the property carried be of a certain kind	III	3
unless the description and value of the property be declared ...	III	3
carrier is responsible for, if the value and description of the property is declared	III	5
carrier's liability for, is not limited by any public notice, but may be limited by special contract	III	6
liability of owner of tramroad for, is not limited by special contract	III	7
owner of tramroad is answerable for, only if it is caused by negligence or wrongful act	III	7
when carrier is not protected from liability for, ...	III	8
Lunacy, decree of nullity of marriage in case of, ...	XV	27
Lunatic, acquisition of new domicile by, ...	X	18
probate cannot be granted to, ...	X	183
Maafee Estates, provisions of Act II of 1865 applicable to, ...	II	8
municipal cess on, ...	II	8
assessment on, for purposes of Rural Police	II	8
how paid and realized	II	9
(See *Rural Police*).		
Madras, Act VIII of 1865 may be extended to the High Court of, ...	VIII	3
saving of jurisdiction of Village and District Panchâyats in, ...	XI	12
Act XII of 1865 may be extended to the High Court of, ...	XII	16
repeal of Regulations inconsistent with Act XX of 1865 on extension of that Act to, ...	XX	48
irrigation and Canal Company, Act relating to, ...	XXX	
(See *Governor in Council*).		
Magistrate, meaning of the word in Act VII of 1865	VII	1
XII of 1865	XII	1
XIII of 1865	XIII	2
XX of 1865	XX	2
XXIII of 1865	XXIII	1
saving of jurisdiction of, in regard to debts	XI	12
Judge of Small Cause Court may be invested with the powers of, ...	XI	51
(See *Small Cause Courts*).		
of Police for the Town of Calcutta, delivery to Superintendent of the Presidency Jail of persons sentenced to imprisonment by a, ...	XII	7
Marriage to be solemnized according to Act V of 1865	V	5
by whom to be solemnized	V	6
licenses to solemnize, by whom granted	V	8
not solemnized according to Act V of 1865, is void	V	9
solemnized before the commencement of Act V of 1865, when valid	V	10
notice of intended, ...	V	11
may be solemnized in private dwelling by special license	V	11
notice of intended, to be published by Minister of Religion ...	V	12
intended to be solemnized in a private dwelling, notice to be sent by Minister of Religion to the Marriage Registrar	V	13

	Act.	Sec.
MARRIAGE, notice of intended, of minor, to be sent by Minister to Marriage Registrar	V	14
notice of intended, to be published by Marriage Registrar ...	V	15
issue of certificate of notice given and declaration made by Minister consenting to solemnize, ...	V	17
issue of such certificate in case of minority	V	18
of minor, consent of parent or guardian required to, ...	V	20
procedure of Minister on receipt of notice prohibiting, ...	V	22
to be solemnized in the presence of at least two witnesses ...	V	25
if not solemnized within two months from the date of certificate, certificate is void	V	26
proof of, in accordance with the provisions of Part I, Act V of 1865 ...	V	27
hours between which, shall be solemnized in India	V	28
not invalidated merely by defect in registration	V	29
solemnized by certain persons not being clergymen either of the Church of England or the Church of Rome, registration and certificates of, ...	V	34-37
errors in the registration of, ...	V	41
certified copy of entry in Marriage Register is evidence of, ...	V	44
solemnized under Statute 14 & 15 Vic., cap. 40, or Act V of 1852, parts of Act V of 1865 which do not apply to, ...	V	45
punishment for false oath, declaration, notice, or certificate, for procuring, ...	V	54
of Native Christians, notice of intended, ...	V	23
custody of Register Book of, ...	V	39
Local Government may issue license to any person to grant certificates of, ...	V	47
conditions for, ...	V	48
when conditions are fulfilled, the licensed person to grant a certificate of, ...	V	49
when valid	V	50
registration of, ...	V	51
searches to be allowed in the Register Book of,...	V	52
Roman Catholics are not subject to the provisions for the, ...	V	53
(See *Punishment*).		
neither interest in nor power over property is acquired or lost by, ...	X	4
between a person domiciled and a person not domiciled in British India	X	44
settlement of minor's property in contemplation of, ...	X	45
revocation of Will by, ...	X	56
and divorce among Parsees, Act relating to, ...	XV	
(See *Parsee*).		
MARRIAGE ACT, Indian, extent and commencement of, ...	V	2
MARRIAGE REGISTRAR, senior to be appointed when in any District there are more Marriage Registrars than one, ...	V	16
to pay fees over to Government	V	43
under provisions of Act V of 1852, must be a Christian ...	V	46
MARRIED WOMAN, probate cannot be granted to, without husband's previous consent	X	183
administration cannot be granted to, without husband's previous consent	X	189
to whom probate or administration has been granted, powers of,	X	275

	Act.	Sec.
MATRIMONIAL COURTS, practitioners in, ...	XV	25
MILITARY COURTS OF REQUESTS, saving of jurisdiction of, ...	XI	12
PUNCHAYATS, saving of jurisdiction of, ...	XI	12
MINOR, meaning of the term in Act V of 1865	V	4
X of 1865	X	3
notice of intended marriage of, to be sent by Minister to Marriage Registrar	V	14
intended marriage of, certificate of notice given and declaration made	V	18
consent of parent or guardian to marriage of, ...	V	20
domicile of, ...	X	14
acquisition of new domicile by, ...	X	17
settlement of property of, in contemplation of marriage	X	45
probate cannot be granted to a, ...	X	183
MINORITY defined	X	3
MONTH, meaning of the word in Act V of 1865	V	4
X of 1865	X	3
MOOKHTARS to whom Act XX of 1865 does not apply	XX	44
(See *Pleaders*).		
MOVEABLE PROPERTY defined	X	3
succession to, is regulated by law of country in which the deceased had his domicile at his death	X	5
a person can have but one domicile for succession to his,	X	6
in British India, law of succession to, ...	X	19
MUHAMMADAN, Act X of 1865 does not apply to succession to the property of a,	X	331
NAIB TAHSILDARS may be invested with powers of Tahsildars in the Punjab ...	XIX	6
NATIVE CHRISTIANS defined	V	4
proceedings before issue of certificate in the case of intended marriage of, ...	V	23
(See *Marriage*).		
NOLLE PROSEQUI on unsuitainable charge	XIII	8
NON-REGULATION PROVINCES, Act to extend Acts and Regulations to, ...	I	
under Government of India		
Governor General in Council may extend any Act or Regulation to, ...	I	1
and may make any order for carrying such provisions into operation	I	3
under Government of North-Western Provinces		
Lieutenant Governor of North-Western Provinces may extend any Act or Regulation to, ...	I	
and may make any order for carrying such provisions into operation	I	3
repeal of Rules which are inconsistent with the Acts and Regulations	I	4
NORTH-WESTERN PROVINCES, an Act to extend Acts and Regulations to Non-Regulation Provinces under Government of, ...	I	
(See *Non-Regulation Provinces*).		
Act to provide for the maintenance of Rural Police in the, ...	II	
Act II of 1865 may be extended to any District of	II	13
(See *Rural Police*).		

	Act.	Sec.
NOTICE of intended marriage	V	11
to be published by Minister of Religion ...	V	12
to be solemnized in private dwelling, to be sent by Minister of Religion to the Marriage Registrar ...	V	13
of minor to be sent by Minister to Marriage Registrar	V	14
to be published by Marriage Registrar	V	15
prohibiting marriage, procedure of Minister on receipt of, ...	V	22
NULLITY of Parsee marriage in case of lunacy	XV	27
in case of non-consummation	XV	28
NUZERANA AND MAAFEE ESTATES (See *Maaffee Estates*).		
OBLITERATION in an unprivileged Will	X	58
OFFENCES relating to marriage, jurisdiction to try persons for, ...	V	64,65
punishable with death, Special Jury for trial of person charged with, ...	XIII	11
under Act XV of 1865, by whom tried	XV	46
punishment of, (See *Punishment*).		
OFFICER defined	IV	1
estate of deceased, exempted from the operation of Section 26 of Act VIII of 1855	IV	2
ONEROUS BEQUEST, legatee takes nothing by, unless he accepts it fully ...	X	109
OPIUM, Act XVII of 1865 does not alter the duty on, ...	XVII	1
ORDERS imposing fines under Act XX of 1865 subject to revision	XX	42
ORIGIN, domicile of, (See *Domicile*).		
OUDH, an Act to remove doubts as to the jurisdiction of Revenue Courts in, ... (See *Land, Under-tenures*).	XVI	
PARENT, consent of, to minor's marriage	V	20
may in certain cases prohibit issue of certificate by Minister ...	V	21
PARSEES whose marriage is the subject of a suit under Act XV, custody of children of,...	XV	44
re-marriage of, after dissolution of former marriage	XV	43
parts of the Indian Succession Act, 1865, which do not apply to, ...	XXI	8
PARSEE INTESTATE, who leaves a widow and children	XXI	1
who leaves a widower and children	XXI	2
man who leaves children but no widow	XXI	3
woman who leaves children but no widower	XXI	4
who leaves a widow or widower but no lineal descendants ...	XXI	6
who leaves neither widow or widower nor lineal descendants	XXI	7
pre-deceased child's share of property of, to be divided among the widow or widower and issue of such child ...	XXI	5
PARSEE MARRIAGE AND DIVORCE ACT	XV	
PARSEE MARRIAGE, requisites to validity of, ...	XV	3
nullity of, in case of lunacy	XV	27
in case of non-consummation	XV	28
dissolution of, in case of absence for seven years... ...	XV	29
cannot be enforced by suit when the husband is under 16 or the wife under 14 years	XV	37
PARSEE MATRIMONIAL COURTS, constitution of, ...	XV	15
Chief Matrimonial Courts	XV	16
District Matrimonial Courts	XV	17
jurisdiction of, may be altered by the Local Government	XV	18
rules of procedure in, to be made by High Court	XV	51

	Act.	Sec.
PARSEE PRIEST, punishment of, for solemnizing a marriage contrary to certain laws	XV	9
for neglecting to sign and send to the Registrar a certificate of any marriage he may solemnize ...	XV	10
PAYMENTS to executor before probate or letters of administration revoked ...	X	262
PENAL CODE. Section 193, V 54, (See *Delegates*).		
PERSON, meaning of the term in Act III of 1865	III	2
X of 1865	X	3
XX of 1865	XX	2
charged is entitled to copies of examinations, &c., of witnesses on whose depositions he is committed	XIII	5
PERSONS who are held, for purposes of succession, to be similarly related to a deceased person	X	23
PETITION against assessment of House Tax	II	5
(See *Rural Police*).		
for probate	X	244
for letters of administration	X	246
for probate or letters of administration to be subscribed and verified by petitioner and his pleader	X	247
stamp on, ...	X	Sched.
PETITIONER for probate may be examined by District Judge	X	250
PLEADER defined	XX	2
practising before Board of Revenue, charged with improper conduct ...	XX	28
charged with improper conduct in any Office subordinate to the Board of Revenue	XX	29
Board of Revenue may call for record in case of acquittal of ...	XX	30
may apply to be enrolled under Act XX of 1865	XX	43
PLEADERS AND MOOKHTARS, an Act to amend the Law relating to, ...	XX	
High Court to make rules for the qualification, admission, enrolment, &c., of, ...	XX	4
persons who may act as, ...	XX	5
Local Government to appoint persons to be examiners of, ...	XX	6
names of, to be enrolled in books kept in High Court	XX	7
certificates to be issued to, ...	XX	8
form and duration of certificate	XX	9
stamp on certificate	XX	10
where to practise	XX	11
may apply to be enrolled in the Court in which they desire ordinarily to practise	XX	12
unqualified persons who practise as, are liable to fine or imprisonment and cannot recover fees ...	XX	13
convicted of criminal offence may be suspended or dismissed by High Court	XX	14
may be suspended or dismissed by High Court for any reasonable cause	XX	15
charges against, in any Court subordinate to the High Court	XX	16
High Court may call for record in case of acquittal of, ...	XX	17
when dismissed, to surrender their certificates ...	XX	18
procedure with regard to suspended or dismissed,	XX	32

	Act.	Sec.
PLEADERS AND MOOKHTARS, rules concerning, to be published in the Gazette ..	XX	41
Act to amend Act relating to, ...	XXIX	
POLICE, Rural, ...	II	
(See *Rural Police*).		
PORTION, legacy to a child not taken as satisfaction of, ...	X	165
POSTHUMOUS CHILD, domicile of origin of, ...	X	7
POWER of appointment defined	X	56
executed by a general bequest	X	78
(See *Appointment*).		
POWERS of married executrix	X	275
PRESIDENCY JAIL, Superintendent of, ...		
(See *Superintendent*).		
PRIEST, meaning of the word in Act XV of 1865	XV	2
(See *Parsee Priest*).		
PRINCIPAL SADR AMIN, Judge of Small Cause Court may be invested with the powers of, ...	XI	51
(See *Small Cause Courts*).		
PRISONER may employ person to assist in defence	XX	40
PROBATE defined	X	3
can be granted only to an executor appointed by the Will	X	181
connot be granted to certain persons	X	183
may be granted to several executors simultaneously or at different times	X	184
separate probate of Codicil discovered after grant of.	X	185
establishes the Will from testator's death	X	188
of copy or draft of lost Will -	X	208
of contents of lost or destroyed Will	X	209
of copy where original exists	X	210
limited to purpose specified in the Will	X	219
subject to exception	X	226
of the rest of deceased's estate after probate has been granted subject to exception	X	228
petition for	X	244
translation of Will to be annexed to the petition for, ...	X	245
grant of, to be under seal of Court	X	254
not to be granted till seven days after testator's death	X	258
contentious cases concerning grants of, ...	X	261
expenses of, to be paid next after funeral expenses, &c. .. .	X	280
stamp for, ...	X	Sched.
stamp for petition for, ...	X	Sched.
PRODUCE and interest of legacies	X	309-315
PROPERTY, interest in and power over, not acquired or lost by marriage ...	X	4
in respect of which a deceased person is considered to have died intestate	X	25
devolution of intestate's, ...	X	26-28
distribution of intestate's, ...	X	29-42
(See *Intestate*).		
not included in a settlement made previous to the marriage of a person domiciled in British India, and a person not domiciled in British India	X	44
settlement of minor's, in contemplation of marriage	X	45
invalidity of direction in a Will to accumulate the income arising from,	X	104

	Act.	Sec.
Property transferable by gift in contemplation of death	X	178
of deceased, vests in executor or administrator as representative ...	X	179
of Intestate Parsee, succession to	XXI	
(See *Parsee Intestate*).		
moveable (See *Moveable Property*).		
immoveable (See *Immoveable Property*).		
Proprietor of estate, to assess and collect house-tax for purposes of the Rural Police in the North-Western Provinces	II	2
shall nominate Village Watchman within fifteen days of the occurrence of a vacancy in the office...	II	11
(See *Rural Police*).		
Province defined	X	3
Provinces, Non-Regulation (See *Non-Regulation Provinces*).		
North-Western (See *North-Western Provinces*).		
Punchayats in Madras, saving of jurisdiction of, ...	XI	12
Punishment for false oath, declaration, notice or certificate	V	54
for forbidding the issue by a Marriage Registrar of certificate by false representation	V	55
of unauthorized person solemnizing a marriage	V	56
for solemnizing a marriage at improper time	V	57
for solemnizing a marriage when either party is a minor within a certain time after notice	V	59
of Registrars for issuing certificates or solemnizing marriages without publication of notice	V	60
of persons authorized to solemnize marriages, not being Clergymen of the Church of England or of the Church of Rome, solemnizing marriage without notice	V	61
of unlicensed person for pretending to grant certificate ...	V	62
for destroying or falsifying Marriage Register Books	V	63
in the Settlement of Prince of Wales' Island, Singapore and Malacca, of offences relating to marriage	V	66
for vexatious seizures and arrests	VII	12
for false verification of petition	X	249
of Parsee Priest for solemnizing a marriage in violation of certain laws	XV	9
of Parsee Priest for neglecting to sign and send to the Registrar a certificate of any marriage he may solemnize	XV	10
of any person who is required to subscribe or attest a certificate of marriage between Parsees, for neglect to subscribe or attest such certificate	XV	11
for making, signing, or attesting a false certificate of marriage between Parsees	XV	12
of Registrar failing to register a certificate of marriage between Parsees	XV	13
for secreting, destroying, or altering the register of certificates of marriages between Parsees	XV	14
of offences under Act XV of 1865, if committed within local limits of ordinary original Civil jurisdiction of the High Court ...	XV	47
Punjáb defined	XXIII	1
extension of operation of Acts and Regulations to the, ...	I	2

	Act.	Sec.
PUNJÁB, Act II of 1865 may be extended to the, ... (See *Rural Police*).	II	14
grades of Courts in the, ...	XIX	4
appeals from decrees in the, ...	XXIII	42
Act to make temporary provision for the decision of Civil appeals in the,	XXVII	
PUNJÁB CHIEF COURT ACT, 1865	XXIII	
commencement of, ... (See *Chief Court*).	XXIII	53
PUNJÁB COURTS' ACT, 1865	XIX	
REFERENCE to High Court (See *High Court*)...		
REFUND of legacy paid under Judge's order	X	316
when legacy has become due on the performance of a condition ..	X	318
for discharge of a debt of which the executor had no previous knowledge	X	319
may be called for within two years from testator's death	X	321
limit to, ...	X	324
to be without interest	X	325
REGIMENTAL DEBTS' ACT, 1863, not affected by Act X of 1865	X	330
REGISTER of marriages between Parsees to be open for public inspection ...	XV	8
REGISTRAR, meaning of the word in Act XIII of 1865	XIII	2
XXIII of 1865	XXIII	1
to allow search of marriage Register books, and to give copies of entries, &c.	V	42
for the purposes of the "Parsee Marriage and Divorce Act, 1865" ... (*See District Registrar, Deputy Registrar*).	XV	7
REGISTRAR OF A COURT OF SMALL CAUSES		
appointment of, by Local Government	XI	35
duties of, ...	XI	36
may reject plaint in Judge's absence	XI	37
Judge may reject plaint received or receive plaint rejected by. ...	XI	37
may enter up judgment by confession in Judge's absence ...	XI	38
execution of decrees by.	XI	39
may be invested with powers of Small Cause Court Judge in certain cases	XI	40
hearing of suits cognizable by.	XI	41
when there is no appeal from decision of, ...	XI	42
may submit statement for Judge's opinion	XI	42
setting aside decree of, ...	XI	43
REGISTRATION, marriages solemnized under Statute 14 & 15 Vic., cap. 40, and Act V of 1852 exempt from.	V	29
defect in, shall not invalidate marriage	V	29
of marriages solemnized by Clergymen of the Church of England	V	30-31
Rome ...	V	32
Scotland	V	33
solemnized by persons not being Clergymen of the Church of England or of Rome	V	34
of marriages, errors in, ...	V	41
of assurances, Act to amend the law concerning, ...	IX	
of marriages between Parsees ... . (See *District Registrar, Deputy Registrar*).	XV	6

	Act.	Sec.
Regulation XXVII, 1814, Bengal Code, repeal of, ...	XX	3
VII, 1822, Bengal Code, repeal of Section 25 of, ...	XX	3
IX, 1825, Bengal Code, repeal of part of Clause 9, Section 5 of, ...	XX	3
IX, 1833, Sections 12 to 15 of, applicable to assessment under Act II of 1865...	II	4
(See *Repeal*).		
Regulations, extension of, to Non-Regulation Provinces	I	
(See *Non-Regulation Provinces*).		
Remarriage of Parsees after the time limited for appealing against a decree dissolving a marriage has expired	XV	43
Renunciation of executorship	X	194
grant of administration in case of, ...	X	195
Repeal of rules in operation in Non-Regulation Provinces on the extension to such Provinces of the Acts and Regulations	I	4
(See *Non-Regulation Provinces*).		
of rules inconsistent with Act II of 1865	II	15
of Regulations inconsistent with Act XX of 1865...	XX	48
(See *Act*, *Regulation*).		
Requests, jurisdiction of Courts of, is not affected by Sections 6, 7 and 8 of Act XXII of 1864, nor by Act XI of 1865	XI	12, 19
Residuary Legatee how constituted	X	89
property to which he is entitled	X	90
shall not receive any of the residue until annuities created by the Will are satisfied	X	163
transfer of amount of contingent bequest to, ...	X	304
Residue bequeathed to a person for life, investment of, ...	X	305
bequeathed to a person for life, with direction to invest in specified securities	X	306
time and manner of such investment	X	307
of property after payment of debts and legacies, shall be paid to the residuary legatee	X	326
Revenue Agent, who may practise as, ...	XX	19
names of, to be enrolled in a Book kept by the Secretary of the Board of Revenue	XX	20
form of certificate for, ...	XX	21
stamp on certificate	XX	22
Revenue Board to ascertain the qualifications of, ...	XX	23
Local Government to appoint examiners	XX	24
may apply to be enrolled in the Office in which they desire ordinarily to practise	XX	25
convicted of criminal offence may be suspended or dismissed by the Board of Revenue	XX	26
may be suspended or dismissed by the Board of Revenue for any reasonable cause	XX	27
charged with improper conduct in any Office subordinate to the Board of Revenue	XX	29
Board of Revenue may call for record in case of acquittal of, ...	XX	30
who is also a Mookhtar, procedure on dismissal of, ...	XX	31

	Act.	Sec.
Revenue Agent to deliver up his certificate on suspension or dismissal ...	XX	33
unqualified person practising as, ...	XX	34
person who is not, may in certain cases prosecute business in a Revenue Office	XX	35
practising when Act XX of 1865 comes into operation ...	XXIX	3
Revenue Courts in the Province of Oudh		
Act to remove doubts as to the jurisdiction of, ...	XVI	
take cognizance of certain suits during progress of Revenue settlement	XVI	2
decisions of, passed before Act XVI of 1865, not invalidated by any thing contained in the Code of Civil Procedure	XVI	8
in the Punjab, exclusion of jurisdiction of, ...	XIX	23
Office, meaning of term in Act XX of 1865	XXIX	5
Revival of unprivileged Will after revocation	X	60
of certain suits relating to under-tenures	XVI	6
Revocation of Will by testator's marriage	X	56
of unprivileged Will	X	57
of privileged Will	X	59
Roman Catholic defined	V	4
not subject to the provisions for the marriages of Native Christians	V	53
Rome, Church of, defined	V	4
Rules inconsistent with the Acts and Regulations are repealed on the extension of the Acts and Regulations to Non-Regulation Provinces in which Rules are in operation		4
(See *Non-Regulation Provinces*).		
inconsistent with Act II of 1865	II	15
for the management and preservation of Government Forests		
may be made by Local Government	VII	3
what may be provided for by, ...	VII	4
punishments for infringement of, ...	VII	5
when confirmed by Governor General in Council, have force of law ...	VII	6
confiscation of implements used in infringing, ...	VII	7
persons infringing, may be arrested	VII	8
detained in custody	VII	9
causing an infringement of, punishable as infringement	VII	10
enforcement of confiscations and penalties under, ...	VII	13
concerning Pleaders and Mookhtars to be published in the Gazette ...	XX	41
Rural Police, an Act to provide for the maintenance of, in the North-Western Provinces	II	
house tax for maintenance of, to be assessed and collected by proprietors of estates	II	2
how realized when due ...	II	3
Sections 12 to 15 of Regulation IX of 1833 applicable to assessments for purposes of, ...	II	4
complaint to Collector against assessment of house tax for, ...	II	5
Collector may abate assessment of house tax	II	5
Collector may assess on estate a sum to be paid by the proprietor	II	6
assessment liable to alteration	II	7

	Act.	Sec.
RURAL POLICE, assessment on Maafee and Nuzerana estates for purposes of,	II	8
Local Government may determine how the assessments on estates shall be paid	II	9
application of sums assessed for purposes of, ...	II	10
extension of, to any place under Government of North-Western Provinces	II	13
to any place under Government of India ...	II	14
to any place under Government of the Punjab ...	II	14
SALT, Act XVII of 1865 does not alter the duty on, ...	XVII	1
SALTPETRE, reduction of export duties on, ...	XVII XXV	2 3
SCOTLAND, Church of, defined	V	4
SEAL of Court of Small Causes	XI	4
of Court constituted under Act XV of 1865	XV	20
of Chief Court of Punjab	XXIII	9
SECRETARY OF STATE, certificates of marriages of which evidence is required in England sent to, ...	V	40
suits against, ...	XI	10
SEIZURE, penalty for vexatious, ...	VII	12
SETTLEMENT of minor's property in contemplation of marriage	X	45
of Parsee wife's property for the benefit of children	XV	45
SHERIFF, no suit to be against, on the ground of illegality of the imprisonment of certain persons arrested under the process of the High Court at Fort William	VIII	2
no person shall be committed to the, to be received and detained in prison	XII	3
no writ shall be awarded to the, for the arrest and seizure of the body of any offenders	XII	3
SMALL CAUSE COURTS beyond the local limits of the ordinary original Civil jurisdiction of the High Court of Judicature		
an Act to amend the law relating to. ...	XI	
Local Government may constitute and fix the limits of the jurisdiction of, ...	XI	3
seal of, ...	XI	4
subject to control of High Court	XI	4
where held	XI	5
suits cognizable by, ...	XI	6, 8
extension of jurisdiction of, ...	XI	7
suits against Government in, ...	XI	9
suits against the Secretary of State in, ...	XI	10
other Courts shall not hear suit cognizable by, ...	XI	12
Local Government shall appoint Judge of, ...	XI	13
Judge of more than one, to fix times of circuits ...	XI	14
Local Government may invest any person with powers of Judge of, ...	XI	15
jurisdiction to be exercised by a person so invested with the powers of a Judge of, ...	XI	16
remuneration of Judges and of persons invested with the powers of Judges of, ...	XI	17
person invested with the powers of a Judge of, may not practise as Barrister, Attorney, Vakil, Pleader, or law Agent in places where he can exercise his power ...	XI	17

	Act.	Sec.
Small Cause Courts, &c.		
summons to be for final disposal of the suit in suits in, ...	XI	18
immediate execution against moveable property may be granted when a decree is passed in suits cognizable by,	XI	19
if moveable property is insufficient, execution may be granted against immoveable property	XI	20
decisions and orders of, are final	XI	21
but *ex-parte* decree may be set aside	XI	21
new trials may be granted	XI	21
may refer certain questions to the High Court ... (See *High Court*).	XI	22
may pass decree contingent upon opinion of High Court ...	XI	23
High Court to send its decision on the question to, ...	XI	26
High Court may set aside any order of, in a suit out of which a reference arises	XI	28
Local Government may appoint one, to be the Principal Court when in any district there are more than one, ...	XI	29
Judge of Principal Court may sit with Judge of any other of the, ...	XI	30
Local Government may provide that two Judges or a Judge and a person having the powers of a Judge may sit together to dispose of certain suits	XI	31
difference of opinion between two Judges on point of law...	XI	32
difference of opinion between two Judges on matter of fact	XI	33
difference of opinion between Judge and person invested with powers of a Judge of, ...	XI	34
Local Government to appoint Registrars of, ...	XI	35
duties and powers of Registrars of, ... (See *Registrar*).	XI	36
Clerks of the Court in, ...	XI	44
duties of Clerks of the Court in, ...	XI	45
High Court to make rules to regulate the practice of, ...	XI	46
Act VIII of 1859 applies to suits in, ...	XI	47
Judges of, may be invested with the powers of Principal Sadr Amins and Magistrates	XI	51
Judges of, may be invested with power to hear claims under Act X of 1859	XI	52
to furnish records, &c., called for by the Local Government or the High Court	XI	53
Pleaders authorised to practise in, ...	XXIX	4
Soldier defined	IV	1
estate of deceased, exempted from the operation of Section 26 of Act VIII of 1855	IV	2
Special Jurors, list of, ...	XIII	12-15
number to be allowed to diminish to two hundred ...	XIII	13
exempted from serving on common Juries	XIII	14
thirty-six to be summoned for each Sessions	XIII	18
Special Jury in Presidency Town for trial of person charged with an offence punishable by death	XIII	11

	Act.	Sec
SPECIFIC LEGACY to two or more persons in succession	X	134
not liable to abate with general legacies	X	136
of goods described as in a certain place is not adeemed by removal	X	147,148
is not adeemed when subject is changed by operation of law ...	X	150
is not adeemed when subject is changed without testator's knowledge	X	151
of stock is not adeemed when the stock is lent to a third party on condition that it shall be replaced	X	152
of stock is not adeemed if the stock is sold and replaced ...	X	153
does not abate if the assets are sufficient to pay debts ..	X	288
rateable abatement of, if assets are not sufficient to pay debts ...	X	290
(See *Abatement, Ademption*).		
STAMPS on instruments mentioned in Act X of 1865	X	329
on plaint and petition of appeal perferred under Act XV of 1865 ...	XV	39
on Pleader's or Mookhtar's certificate	XX	10
Governor General in Council may reduce or remit duties of, ...	XVIII	2
STATUTE 14 & 15 Vic., cap. 40. Parts of Act V of 1865 which do not apply to a marriage solemnized under, ...	V	45
penalty for false oath &c. under, ...	V	54
27 Vic., cap. 3, nothing in Act XI of 1865 or Sections 6, 7 and 8 of Act XXII of 1864 affects the jurisdiction of Courts of Requests convened under, ...	XI	49
STRAITS' SETTLEMENTS, Act V of 1865 applies to, ...	V	42
part of Act XII of 1865 applies to, ...	XII	1
SUBSTITUTED SERVICE of summons issued under Act XI of 1865	XI	11
SUCCESSION, Law of Intestate and Testamentary, ...	X	
to immoveable property in British India is regulated by the law of British India	X	5
to moveable property is regulated by law of the country in which the deceased had his domicile	X	5
to moveable property, a person can have but one domicile for, ...	X	6
to a person's moveable property in British India, in absence of proof of domicile elsewhere, is regulated by the law of British India ...	X	19
persons similarly related to a deceased person for purpose of, ..	X	23
to property of Intestate Parsee	XXI	
(See *Parsee Intestate*).		
SUDDER COURT, Financial Commissioner in the province of Oudh to have the powers of, in respect of certain suits	XVI	3
SUITOR may appear by co-suitor	XX	40
SUITS under Act XV of 1865 may be heard with closed doors	XV	38
relating solely to any right in respect of any land in the province of Oudh to be cognizable in the Courts of Revenue	XVI	2
SUMMONS under Act XI of 1865, substituted service of, ...	XI	11
SUPERINTENDENT of the Presidency Jail		
appointment of, ...	XII	4
persons sentenced by High Court to imprisonment or to death delivered to the, ...	XII	
persons sentened by High Court to transportation delivered to the, ...	XII	6
persons sentenced by a Police Magistrate to imprisonment delivered to the, ...	XII	7
shall detain persons delivered to him according to the warrants	XII	8

	Act.	Sec.
SUPERINTENDENT OF THE PRESIDENCY JAIL		
persons committed by a Justice of the Peace or a Magistrate for trial by the High Court delivered to the, ...	XII	9
persons arrested in pursuance of a warrant of the High Court or of a warrant of a Calcutta Small Cause Court to be delivered to the, ...	XII	10
shall detain such persons according to the warrant ...	XII	11
certain persons, confined in the Great Jail of Calcutta, considered to be in the custody of the, ...	XII	12
warrant of commitment under Reg. III. 1818, of the Bengal Code, may be directed to the, ...	XII	13
provisions of Statute 11 Vic., cap. 21, apply to persons in the custody of the, ...	XII	14
TABLE OF KINDRED	X	24
of prohibited degrees among Parsees	XV	3
TAHSILDAR of second class, jurisdiction of Court of, ...	XIV	7
of first class, jurisdiction of Court of, ...	XIV	8
jurisdiction of, in the Punjab	XIX	5
Local Government may invest Naib Tahsildars in the Punjab with the powers of, ...	XIX	6
TENOR, executor according to, ...	X	182
TESTATOR's title to things bequeathed to be completed at the cost of his estate	X	155
TRADER defined	XXVIII	1
TRAMROAD constructed under Act XXII of 1863, liability of owner of, for loss or damage is not limited by special contract ... ... (See *Carriers*).	III	7
TRANSFER of suits in Small Cause Courts from Registrar's to Judge's file ...	XI	41
of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court in the Central Provinces	XIV	20
UNCERTAINTY, a will or bequest may be void for, ...	X	76
UNDER TENURES, when limitation rules do not apply to suits relating to, ...	XVI	5
revival of suits relating to, dismissed on ground of bar by lapse of time	XVI	6
UNSOUND MIND (See *Lunacy*.)		
VAKILS to whom Act XX of 1865 does not apply ... ... (See *Pleaders*).	XX	44
VALIDITY given to certain marriages solemnized before the commencement of Act V of 1865	V	10
of certain arrests and imprisonments in execution of process of High Court	VIII	1
of marriage between Parsees	XV	3
of reduction of export duty on saltpetre	XVII	2
of orders passed in the Punjab prior to the passing of Act XIX of 1865	XIX	24
VERIFICATION of petition for probate by one of the witnesses to the Will ...	X	248
VESTING of legacy given in general terms	X	91
when payment or possession postponed	X	106
contingent on specified uncertain event	X	107
of interest in a bequest to such members of a class as shall have attained a particular age	X	108

	Act.	Sec.
Vexatious seizures and arrests	VII	12
Village Munsifs, saving of jurisdiction of	XI	12
Village Police, disbursements for, ...	II	10
(See *Rural Police*).		
Village Punchayats, saving of jurisdiction of, ...	XI	12
Village Watchman in the N. W. P., nomination of, ...	II	11
duties of, ...	II	12
(See *Rural Police*).		
Void bequests	X	99-105
(See *Bequest, Invalidity*).		
Wages for services rendered to the deceased within 3 months next preceding his death to be paid next after expenses of funeral and probate	X	281
(See *Expenses*).		
Warrant of commitment of European British subject for offence committed in foreign territory	XXIII	40
of attorney executed before 1st January 1862 validated	XXV	1
after 14th July 1865 void	XXV	5
Watchman in North-Western Provinces, nomination of, ...	II	11
duties of, ...	II	12
(See *Rural Police*).		
Widow may be excluded from her share of her husband's estate	X	26
share of, when her husband leaves lineal descendants, and when he leaves kindred	X	27
share of, to be deducted before distribution of estate	X	29, 34
widower has same rights as, ...	X	43
Widower has same rights in respect of intestate wife's property as a widow has in respect of intestate husband's property	X	43
Wife, meaning of the word in Act XV of 1865	XV	2
Will defined	X	3
persons who may dispose of their property by, ...	X	46
a father may appoint a guardian for his child by, ...	X	47
obtained by fraud, coercion or importunity	X	48
may be revoked or altered	X	49
rules for execution of unprivileged, ...	X	50
written document considered to form part of, ...	X	51
privileged, persons who may dispose of their property by, ...	X	52
execution of, ...	X	53
may be made by word of mouth	X	53
a bequest to a witness is void	X	54
is not insufficiently attested by reason of a bequest to a person attesting it	X	54
an executor is not disqualified as a witness to prove the execution or validity of, ...	X	55
revoked by testator's marriage	X	56
made in exercise of power of appointment is not revoked by testator's marriage	X	56
unprivileged, can only be revoked by marriage or by another Will or Codicil or by a writing executed as an unprivileged Will	X	57
unprivileged, effect of obliteration, interlineation, or alteration in, ...	X	58
privileged, revocation of, ...	X	59
unprivileged, revival of, ...	X	60

	Act.	Sec.
WILL, construction of, ...	X	61-98
wording of, ...	X	61
questions as to object or subject of, ...	X	62
misnomer or misdescription of object of, ...	X	63
when words may be supplied in a, ...	X	64
rejection of erroneous particulars in description of subject of, ...	X	65
when part of description is not to be rejected as erroneous	X	66
extrinsic evidence admissible in case of latent ambiguity	X	67
extrinsic evidence inadmissible in case of patent ambiguity or deficiency ...	X	68
meaning of any clause of, to be collected from the entire, ...	X	69
words may be taken in a restricted sense, or in a sense wider than usual ...	X	70
where a clause is susceptible of two meanings	X	71
no part of, to be rejected as destitute of meaning	X	72
words occurring in different parts of, are taken to be used everywhere in the same sense	X	73
testator's intention to be carried out as far as possible	X	74
of two inconsistent clauses, the latter shall prevail	X	75
may be void for uncertainty	X	76
words describing subject refer to property answering that description at the testator's death	X	77
where a bequest is made to the "heirs," &c., of a particular person ...	X	80
where a bequest is made to the "representatives" or to the "executors" or "administrators" of a particular person	X	81
where property is bequeathed to any person without words of limitation ...	X	82
where property is bequeathed to a person with a bequest in the alternative	X	83
where property is bequeathed to a person and words are added to describe a class of persons	X	84
where a bequest is made to a class under a general description only ...	X	85
construction of the terms "children," "grand-children," "nephews," "nieces," "cousins," "first cousins," "cousins german," "first cousins once removed," "second cousins," "issue," and "descendants" in a, ...	X	86,87
where two bequests are made to the same person	X	88
of which probate or letters of administration may be granted shall be filed	X	259
(See *Annuity, Bequest, Legacy*).		
WITNESSES, marriage to be solemnized in the presence of at least two, ...	V	25
(See *Will*).		
WOMAN acquires domicile by marriage	X	15
domicile of married, follows the domicile of her husband	X	16
WRIT for the arrest and seizure of the body of any offender no longer to be awarded to the Sheriff of Calcutta	XII	3
WRITINGS, stamps and fees for, ...	X	329
YEAR, meaning of the word in Act V of 1865	V	4
X of 1865	X	3

ACT No. 1 of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 7th January 1865).

An Act to authorize the extension of certain Acts and Regulations to Territories not subject to the General Regulations.

Preamble

WHEREAS it is expedient to authorize the Governor-General of India in Council and the Lieutenant-Governors of the North-Western Provinces and the Punjab, to extend to Non-Regulation Provinces under the immediate administration of the Government of India or under the Governments of the Lieutenant-Governor of the North-Western Provinces and the Punjab respectively, certain Acts and Regulations in force at the time of the passing of this Act in parts of British India subject to the General Regulations; It is enacted as follows:—

Governor-General in Council may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

1. From and after the passing of this Act, it shall be lawful for the Governor-General of India in Council, from time to time, by notification in the Gazette of India, to extend to any Non-Regulation Province under the immediate administration of the Government of India the operation of any Act or Regulation, or of any portion of any Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Lieutenant-Governors of North-Western Provinces and Punjab may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

2. From and after the passing of this Act, it shall be lawful for the Lieutenant-Governor of the North-Western Provinces as to the Non-Regulation Provinces under his government, and for the Lieutenant-Governor of the Punjab as to the Territories under his government, by notification in the Official Gazette, to extend to such Provinces and Territories respectively the operation of any Act or Regulation of the Government of India, or of any portion of any such Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Power to direct by whom the powers incident to the provisions applied under this Act shall be exercised.

3 Whenever the operation of any Act or Regulation or of any portion of any Act or Regulation shall be extended under either of the last two preceding Sections, the Governor-General of India in Council or the Lieutenant-Governor making such extension, may direct by whom any powers or duties incident to the provisions applied under such Section shall be exercised or performed, and may make any order which shall be deemed requisite for carrying such provisions into operation.

Repeal of inconsistent Rules.

4. From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to the enactment whose operation shall have been so extended, shall cease to have effect in such Territories.

Short title.

5. This Act shall be called "The Acts and Regulations' Extension Act, 1865."

PRICE SIX PIES.

ACT No. II of 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 7th February* 1865.)

An Act to provide for the maintenance of the Rural Police in the Territories under the government of the Lieutenant-Governor of the North-Western Provinces and elsewhere.

Preamble.

WHEREAS it is expedient to provide for the better maintenance of the Rural Police in the Territories under the government of the Lieutenant-Governor of the North-Western Provinces and elsewhere; It is enacted as follows :—

"Number."

1. In this Act the singular number includes the plural, and the plural number includes the singular.

Proprietors of estates in Districts affected by this Act may assess and collect house tax.

2. The proprietor of any estate situated in any District to which the provisions of this Act may be extended, shall have authority to assess and collect, for the purposes of this Act, a sum not exceeding one Rupee per annum from the occupant of every house upon such estate. It shall be competent to the Collector of the District, acting under the orders of the Local Government, to determine what buildings shall be held to be a separate house for the purposes of this Act.

Assessments to be due annually with first instalment of rent.

3. The sum so assessed shall be held to fall due, in advance for the coming Revenue year, with the first instalment of agricultural rents payable in the vicinity in that year, and may be realized under the law for the time being in force in such vicinity relating to the recovery of rent. Provided that no person shall be liable to be ousted from his house for non-payment of any assessment leviable under the last preceding Section. Complaints against proprietors for unlawful collection of such assessments shall be treated as falling under Clause three, Section twenty-three, Act X of 1859 *(to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal).*

Regulation IX of 1833, Sections 12 to 15, to apply.

4. Sections twelve, thirteen, fourteen, and fifteen of Regulation IX of 1833 *(to modify certain portions of Regulation VII of* 1822, *and Regulation IV of* 1828*; to provide for the more speedy and satisfactory decision of Judicial questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for en-*

PRICE ONE ANNA.

forcing the production of the village accounts; for the more extensive employment of Native agency in the Revenue Department; and to declare the intent of Section V, Regulation VII of 1822, *touching claims to Malikana),* shall be applicable to assessments under this Act.

Persons assessed may petition against assessment, and Collector may abate or remit same.

5. Any person assessed under Section two of this Act may, by petition on unstamped paper, complain to the Collector of the District against such assessment, on the ground of inability to pay the same; and the Collector shall be competent to abate, or wholly to remit, the assessment, if he shall be of opinion that the circumstances of the complainant render such abatement or remission proper.

Collector may assess yearly contribution for purposes of this Act.

6. It shall be lawful for the Collector or for any Officer making Settlements of Land Revenue, to assess upon any estate, as aforesaid, a sum to be contributed yearly by the proprietor for the purposes of this Act, not exceeding the aggregate of the house assessments in any such estate, less ten per cent. Such assessment shall be over and above any Municipal cess or percentage levied on the Land Revenue for similar purposes.

Such assessment may from time to time be altered.

7. The sum so assessed shall, subject to the sanction of the Local Government, be liable to be altered from time to time in conformity with the foregoing provisions.

Act to apply to Maafee and Nuzerana estates

8. The provisions of this Act shall be applicable to Maafee and Nuzerana estates. Besides the assessments made by the Collector under Section six of this Act, it shall be lawful to levy upon the Maafeedars, or (where a sub-settlement shall have been made) on the sub-proprietors, or on the Nuzeranadars, a Municipal cess not exceeding two Rupees twelve annas per cent. of the jumma at which their estates would have been rated if not held under a Maafee or Nuzerana title.

Government to determine how and when assessments to be paid.

9. The Local Government may determine by what instalments and at what times, the assessments payable under Sections six and eight shall be paid. Any arrear of such assessments may be realized by the same processes and under the same rules as arrears of Land Revenue.

Application of assessments.

10. Assessments realized under this Act shall be appropriated, under the orders of the Local Government, to the payment of the Village Police or to any other purpose connected therewith. Any surplus that may remain shall be at the disposal of the Local Government for sanatory purposes, or any other purpose of general improvement within the District in which the amount is collected.

11. Every proprietor or other person in whom the right of nomination of Village Watchmen is vested, shall nominate a fit and proper person within fifteen days of the occurrence of any vacancy in the office of Watchman on his estate; and the person so nominated shall after due enquiry be appointed or rejected by the Magistrate of the District at his discretion, or by any Officer authorized by him in that behalf. In default of a nomination within fifteen days of the occurrence of a vacancy or of the rejection of a nominee, the proprietor or other person in whom the right of nomination is vested shall be held to be guilty of disobedience to lawful authority, and shall be liable, by order of the Magistrate, to a fine not exceeding Rupees fifty, and in default of payment to imprisonment in the Civil Jail for a period not exceeding one month; and the Magistrate of the District shall proceed to appoint a person to the vacancy.

Persons empowered to nominate Village Watchmen shall do so within fifteen days after occurrence of vacancy.

12. Any Village Watchman appointed under this Act may be required to perform, within the limits of his village, and in addition to his other duties, any duties required of Police Officers under Act No. V of 1861 *(for the Regulation of Police)*; and he shall be liable to the same penalties for any neglect or disobedience which he would have incurred had he been a Police Officer subject to the provisions of such Act, and guilty of neglect or disobedience, as the case may be.

Village Watchmen to perform duties of Policemen under Act V of 1861, in addition to his other duties.

13. The Lieutenant-Governor of the North-Western Provinces may extend the provisions of this Act to any part of the Territories within his jurisdiction. Provided that this Act shall have no operation in any village to which Act No. XX of 1856 *(to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars, in the Presidency of Fort William in Bengal)*, or any other special Municipal Law shall have been extended, so long as such Act or Law shall continue in force in such village.

Power to Government of North-Western Provinces to extend this Act.

14. Subject to the proviso contained in the last preceding Section, the Governor General of India in Council may extend the provisions of this Act to any Province under the immediate administration of the Government of India. Subject to the like proviso, the Lieutenant-Governor of the Punjab may also extend the provisions of this Act to any part of the Territories under his government.

Power to Governments of India and of the Punjab to extend this Act.

15. From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to this Act, shall cease to have effect in such Territories.

Repeal of inconsistent Rules.

Act No. III of 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the* 14*th February* 1865.)

An Act relating to the rights and liabilities of Common Carriers.

Preamble.

WHEREAS it is expedient not only to enable Common Carriers to limit their liability for loss of or damage to property delivered to them to be carried, but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows :—

Short Title.

1. This Act may be cited as "The Carriers' Act, 1865."

Interpretation Clause.

2. In this Act, unless there be something repugnant in the subject or context—

"Common Carrier."

"Common Carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately.

"Person."

"Person" includes any association or body of persons, whether incorporated or not.

Number.

Words in the singular number include the plural, and words in the plural include the singular.

Carriers not to be liable for loss of certain goods above 100 Rupees in value, unless delivered as such.

3. No Common Carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred Rupees and of the description contained in the Schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such Carrier or his agent the value and description thereof.

For carrying such property, payment may be required at rates fixed by Carrier.

4. Every such Carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred Rupees and of the description aforesaid, at such rate of charge as he may fix : Provided that, to entitle such Carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge

Proviso.

PRICE ONE ANNA.

required, printed or written in English and in the vernacular language of the country wherein he carries on such business.

The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage.

5. In case of the loss of or damage to property exceeding in value one hundred Rupees and of the description aforesaid, delivered to such Carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such Carrier in consideration of such risk as aforesaid.

In respect of what property liability of Carrier not limited or affected by public notice.

Carriers, with certain exceptions, may limit liability by special contract.

6. The liability of any Common Carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice; but any such Carrier, not being the owner of a railroad or tramroad constructed under the provisions of Act XXII of 1863 *(to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken)* may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

Liability of owner of railroad or tramroad constructed under Act XXII of 1863, not limited by special contract.

In what case owner of railroad or tramroad answerable for loss or damage.

7. The liability of the owner of any railroad or tramroad constructed under the provisions of the said Act XXII of 1863, for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

Common Carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

8. Notwithstanding anything hereinbefore contained, every Common Carrier shall be liable to the owner for loss of or damage to any property delivered to such Carrier to be carried where such loss or damage shall have arisen from the negligence or criminal act of the Carrier or any of his agents or servants.

9. In any suit brought against a Common Carrier for the loss, damage, or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage, or non-delivery was owing to the negligence or criminal act of the Carrier, his servants or agents.

Plaintiffs, in suits against Common Carriers for loss, damage, or non-delivery, not required to prove negligence or criminal act.

10. Nothing in this Act shall affect the provisions contained in the ninth, tenth, and eleventh Sections of Act No. XVIII of 1854 *(relating to Railways in India)*.

Saving of provisions of Sections 9, 10, and 11 of Act XVIII of 1854.

SCHEDULE.

Gold and Silver Coin.

Gold and Silver in a manufactured or unmanufactured state.

Precious Stones and Pearls.

Jewellery.

Time Pieces of any description.

Trinkets.

Bills and Hundís.

Currency Notes of the Government of India, or Notes of any Banks, or Securities for payment of money, English or Foreign.

Stamps and Stamped paper.

Maps, Prints, and Works of Art.

Writings.

Title Deeds.

Gold or Silver Plate or Plated articles.

Glass.

China.

Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.

Shawls and Lace.

Cloths and tissues embroidered with the precious metals or of which such metals form part.

Articles of ivory, ebony, or sandal-wood.

Military Orphan Pre

ACT No. IV of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd February 1865).

An Act to exempt the Estates of deceased Officers and Soldiers delivered over to the Administrator-General of Bengal, Madras, or Bombay, from the operation of the twenty-sixth Section of Act No. VIII of 1855.

Preamble

Whereas under or by virtue of the twenty-sixth Section of Act No. VIII of 1855 *(to amend the Law relating to the Office and Duties of Administrator-General)*, the Administrator-General of each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay is entitled to receive a commission at the rates respectively therein mentioned upon the amount or value of the assets which he shall collect and distribute in due course of administration; And whereas by the twenty-first Section of "The Regimental Debts Act, 1863," it is declared that an Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on the property of an Officer or Soldier dying on service exceeding three *per centum* on the gross amount coming to his hands if preferential charges have been previously paid, or on the gross amount remaining in his hands after payment by him of preferential charges, as the case may be; It is enacted as follows:—

1. In this Act—

Interpretation Clause. "Officer."

The term "Officer" means a Commissioned Officer of Her Majesty's Army or of Her Majesty's Indian Army.

"Soldier."

The term "Soldier" means a Soldier of Her Majesty's Army or European Soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer.

Act VIII of 1855, Section 26, not to apply to property of Officers and Soldiers dying on service which shall come to hands of Administrator-General.

2. From and after the passing of this Act, the twenty-sixth Section of Act No. VIII of 1855 shall not apply to cases in which the property of an Officer or Soldier dying on service shall come to the hands of the Administrator-General of any of the said Presidencies, under the ninth or the twelfth Section of "The Regimental Debts Act, 1863;" and such Administrator-General shall

PRICE ONE ANNA.

shall not be entitled to take, and it shall not be lawful for him to take, a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of this Act, if preferential charges, as defined by the fourth Section of the said Statute, have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

Administrator-General only entitled to a commission of three per cent. on gross amount of such property.

Short Title.

3. This Act shall be called "The Administrator-General's Act, 1865."

THE INDIAN MARRIAGE ACT, 1865.

ARRANGEMENT OF SECTIONS.

SECTION.

Preliminary.

1. Short title.
2. Extent and commencement of Act.
3. Act XXV of 1864 repealed.
4. Interpretation Clause.

PART I.

As to the Persons by whom Marriage may be solemnized.

5. Marriage between Christians to be solemnized according to the provisions of this Act.
6. By whom to be solemnized.
7. Declaration and certificate no longer required.
8. Licenses to solemnize marriage by whom to be granted.
9. Marriages solemnized otherwise than according to this Act to be void.
10. Marriages solemnized before 1st May 1865 by certain persons to be deemed valid.

PART II.

As to the Mode of solemnizing Marriages under this Act.

11. Notice of intended marriage.

Proviso.

12. Publication of such notice.
13. Notice of intended marriage in private dwelling.
14. Notice when one of the persons intending marriage is a minor.
15. Publication of such notice.
16. Appointment of Senior Marriage Registrar.
17. Issue of certificate of notice given and declaration made.

Proviso.

18. In case of minority certificate not to issue until fourteen days after receipt of notice.
19. Declaration to be made before issue of certificate.
20. Consent of parent or guardian when necessary.
21. What persons may prohibit issue of certificate by notice.
22. Procedure of Minister on receipt of such notice.

23. Proceedings before issue of certificate in the case of Native Christians.

24. Form of certificate.

25. After issue of certificate, marriage may be solemnized.

26. Certificate to be void if marriage be not solemnized within two months.

27. Proof of marriage in accordance with the provisions of Part I of this Act.

PART III.

As to the Time for solemnizing Marriages.

28. Hours between which marriages to be solemnized.
Proviso.

PART IV.

As to the Registration of Marriages in India.

29. Marriages with certain exceptions to be registered as hereinafter prescribed.
Proviso.

30. Registration of marriages solemnized by Clergymen of the Church of England.

31. Quarterly returns to Archdeaconry.

32. Registration and Returns of marriages solemnized by Clergymen of the Church of Rome.

33. Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.

34. Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

35. Such entries to be signed and attested.

36. Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

37. Copies of certificates to be entered and numbered.

38. Registrar to add number of entry of copy to the certificate, and send same to Government.

39. Custody and disposal of Register Book of marriages solemnized under Part V of this Act.

40. Transmission of certificates of certain marriages to Secretary of State for India.

41. Correction of errors.

42. Searches may be made and copies of certificates given.

43. Appropriation of fees.

44. Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof.

45. These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

46. Marriage Registrars to be Christians and may be appointed *ex-officio*.

Part V.

As to the Marriage of Native Christians.

47. Power to license persons to grant certificates of marriage between Native Christians.

48. Certificate may be given without previous notice of marriage. Conditions.

49. On marriage (the conditions having been fulfilled), licensed person to grant a certificate thereof.

50. Marriages performed under the provisions of Section 48 to be valid.

51. Register Book to be kept.

52. Searches to be allowed in the Register Book.

53. Part V not to apply to Roman Catholics.

Part VI.

As to Penalties.

54. Punishment for false oath, declaration, notice, or certificate, for procuring marriage.

55. Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

56. Punishment for a person not duly authorized, solemnizing a marriage.

57. Punishment for solemnizing a marriage otherwise than between six A. M. and seven P. M., or without witnesses.

58. Section 57 not to apply to marriages solemnized under licenses.

59. Punishment for solemnizing marriage when either party is a minor, within a certain time after notice.

60. Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

61. Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland or Rome, solemnizing marriages without publication of notices, &c.

62. Punishment for unlicensed person pretending to grant certificate of marriage under Part V.

63. Punishment for destroying or falsifying Register Books.

64. Jurisdiction to try persons for offences punishable under this Act.

65. Code of Criminal Procedure applicable to investigations and committals under this Act.

66. Supreme Court of Straits' Settlement to try and punish offences under this Act.

ACT No. V of 1865

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd February 1865.)

An Act to provide for the solemnization of marriages in India of persons professing the Christian Religion.

Preamble.

Whereas it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion; It is enacted as follows:—

Preliminary.

Short Title

1. This Act may be cited as "The Indian Marriage Act, 1865."

Extent and commencement of Act.

2. This Act shall extend to all the Territories that are or shall become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," and shall commence and come into operation on the first day of May 1865.

Act XXV of 1864 repealed.

3. From and after the commencement of this Act, Act No. XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*) is repealed except as to the recovery and application of any penalty for any offence which shall have been committed before such commencement.

Interpretation clause.

4. In this Act, unless there is something repugnant in the subject or context—

"Church of England." "Anglican."

"Church of England" and "Anglican" mean and apply to the United Church of England and Ireland as by law established.

"Church of Scotland."

"Church of Scotland" means the Church of Scotland as by law established.

"Church

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head.

"Church of Rome." "Roman Catholic."

"Church" shall include any Chapel or other building generally used for public Christian worship.

"Church."

"Minor" means a person who has not completed the age of twenty-one years.

"Minor."

"Native Christians" includes the Christian descendants of Natives of India converted to Christianity as well as such converts.

"Native Christians."

"Section" means a Section of this Act.

"Section."

"Month" and "Year" respectively mean month and year reckoned according to the British calendar.

"Month" "Year."

And, in any part of British India in which this Act shall operate, "Local Government" shall mean the person authorized to administer Executive Government in such part.

"Local Government."

PART I.

As to the Persons by whom Marriage may be solemnized

Marriage between Christians to be solemnized according to the provisions of this Act.

5. From and after the commencement of this Act no marriage between persons, one or both of whom shall profess the Christian Religion, shall be solemnized, unless in accordance with the provisions of the next following Section.

By whom to be solemnized.

6. Marriages may be solemnized in India-

1.—By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which such person is a Minister.

2.—By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland.

3.—By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V of 1852 *(for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty intituled an Act for Marriages in India)* of the Governor-General of India in Council.

4.—By

4.—By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

5.—By any person who, with respect to marriages between Native Christians, shall have received, under the provisions of Part V of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

7. From and after the commencement of this Act, the declaration and certificate required by the Statute 58 Geo. III, cap. 84, and Act XXIV of 1860 *(for the solemnization of marriages in India by ordained Ministers of the Church of Scotland)* of the Governor-General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

8. From and after the commencement of this Act the Governor-General of India in Council, the Governors of Madras and Bombay in Council, the Governor of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Lieutenant-Governors of Bengal, the North-Western Provinces and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the Territories under the immediate administration of such Governor-General, or subject to such Governors and Lieutenant-Governors respectively, and to revoke such licenses, whether they shall have been granted before or shall be granted after the passing of this Act.

Marriages solemnized otherwise than according to this Act to be void.

9. From and after the commencement of this Act, all marriages which shall be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth Sections shall be null and void.

Marriages solemnized before first May 1865 by certain persons to be deemed valid.

10. All marriages which shall have been solemnized in India before the commencement of this Act by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council, shall, if not otherwise invalid, be deemed valid to all intents and purposes.

PART II.

As to the Mode of solemnizing Marriages under this Act.

Notice of intended marriage

11. In every case of intended marriage between persons, one or both of whom shall profess the Christian Religion, otherwise than—

1.—Under

1.—Under the provisions of the said Statute 14 and 15 Vic., cap. 40, or of the said Act V of 1852: or

2.—By a Clergyman who has received episcopal ordination, according to the rites, rules, ceremonies and customs of the Church to which he belongs: or

3.—By a Clergyman of the Church of Scotland, according to the rites, rules, ceremonies and customs of that Church: or

4.—By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V of this Act—

One of the persons intending marriage shall give notice in writing according to the form contained in the Schedule A to this Act annexed or to the like effect, to the Minister of Religion whom he or she shall desire to solemnize the marriage, and shall state therein the name or names, and the profession or condition, of each of the persons intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church or private dwelling in which the marriage is to be solemnized. Provided that if either of such persons shall have dwelt in the place stated in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, unless he shall have received a special license authorizing him to do so from and under the hand and seal of the Anglican Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the same Bishop may sanction.

Proviso.

12. The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the same Church. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, he shall at his option either return the said notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate therein, who shall thereupon cause the same to be so published and affixed as aforesaid.

Publication of such notice.

13. If

Notice of intended marriage in private dwelling.

13. If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion on receiving the notice prescribed in the eleventh Section shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

Notice when one of the persons intending marriage is a minor.

14. When one of the persons intending marriage (not being a widow or widower) is a minor, every such Minister as aforesaid who shall receive such notice, and who shall not forthwith return it to the person delivering the same under the twelfth Section shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the Post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Publication of such notice.

15. The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

Appointment of Senior Marriage Registrar.

16. If there be more Marriage Registrars than one in any District, the Local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, cause a copy thereof to be sent to each of the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, as aforesaid.

Issue of certificate of notice given and declaration made.

17. Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made : Provided that no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

Proviso.

18. When

In case of minority, certificate not to issue until fourteen days after receipt of notice.

18. When by such declaration it appears, or when it is otherwise known to such Minister of Religion, that either of the persons intending marriage, not being a widower or widow, is a minor, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

Declaration to be made before issue of certificate.

19. Before any such certificate as aforesaid shall be issued by any such Minister, one of the persons intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or both of the parties, not being a widower or widow, is or are a minor or minors, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is or are no person or persons resident in India having authority to give such consent, as the case may be.

Consent of parent or guardian when necessary.

20. The father, if living, of any minor not being a widower or widow, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, shall have authority to give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

What persons may prohibit issue of certificate by notice.

21. Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed by the person so authorized with his name and place of abode, and his or her position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Procedure of Minister on receipt of such notice.

22. If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the marriage is not authorized by law so to do, or until the said notice be withdrawn by the person who gave it.

23. When

Proceedings before issue of certificate in the case of Native Christians.

23. When any Native Christian about to be married shall take a notice of marriage to a Minister of Religion, or shall apply for a certificate from such Minister under the seventeenth Section, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and if not, shall translate or cause to be translated such notice or certificate to such Native Christian into his language, or into some language which he understands.

Form of certificate.

24. The certificate to be issued by such Minister as aforesaid, may be in the form contained in the Schedule B to this Act annexed, or to the like effect.

After issue of certificate, marriage may be solemnized.

25. After the issue of the certificate by such Minister of Religion, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister shall think fit to adopt: Provided that the marriage be solemnized in the presence of at least two witnesses.

Certificate to be void if marriage be not solemnized within two months.

26. Whenever a marriage is not solemnized within two months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and a certificate thereof issued in the manner aforesaid.

Proof of marriage in accordance with the provisions of Part I of this Act.

27. Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the persons married, or of the consent of any person whose consent to such marriage is required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

PART III.

As to the Time for solemnizing Marriages.

Hours between which marriages to be solemnized.

28. Every marriage solemnized in India from and after the commencement of this Act by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be

be solemnized between the hours of six in the morning and seven in the evening: Provided that this Section shall not apply to a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from and under the hand and seal of the Anglican Bishop of the Diocese or his Commissary; and it is hereby declared that for such special license the Registrar of the Diocese shall be entitled to charge such additional fee as such Bishop may sanction: Provided also that this Section shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall so be solemnized, or from such person as the same Bishop shall have authorized to grant such license.

Proviso.

PART IV.

As to the Registration of Marriages in India.

Marriages with certain exceptions to be registered as hereinafter prescribed.

29. All marriages solemnized in India from and after the commencement of this Act between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852, shall be registered in the manner hereinafter prescribed: Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

Proviso.

Registration of marriages solemnized by Clergymen of the Church of England.

30. Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule C to this Act annexed.

Quarterly Returns to Archdeaconry.

31. Every Clergyman of the Church of England shall send four times in every year Returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of the Archdeaconry to which he shall be subject or within the limits of which such Station or District shall be situated. Such quarterly Returns shall contain all the entries of marriages contained in the said Register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June

June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Local Government.

Registration and Returns of marriages solemnized by Clergymen of the Church of Rome.

32. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall be solemnized; and such person shall forward quarterly to the Secretary to the Local Government, Returns of the entries of all marriages registered by him during the three months next preceding.

Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.

33. Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the form prescribed in the thirtieth Section for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of the Church of Scotland in the territory subject to the Local Government, Returns similar to those prescribed in the thirty-first Section for Clergymen of the Church of England of all marriages solemnized by him.

Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

34. After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England nor of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form contained in the Schedule D to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Such entries to be signed and attested.

35. The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the persons married, and shall be attested by two credible witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from

from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

36. The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one month from the time of the solemnization of such marriage to the Marriage Registrar of the District in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall cause such certificate to be copied into a book to be kept by him for that purpose, and shall transmit all the certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government, together with the certificates from his own Marriage Register Book which he shall transmit under the twelfth Section of the said Statute 14 and 15 Vic., cap. 40, but distinct therefrom.

Copies of certificates to be entered and numbered.

37. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Registrar to add number of entry of copy to the certificate, and send same to Government.

38. The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall at the end of every month transmit the same to the Secretary to the Local Government.

Custody and disposal of Register Book of marriages solemnized under Part V of this Act.

39. The person solemnizing any such marriage as is provided for in Part V of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said District, who shall keep safely the same, and shall make therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said District; and the person having the control of the book at the time when it shall be filled, shall send the same to the Marriage Registrar of the District; or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar,

trar, who shall send it to the Secretary to the Local Government to be kept by him with the records of his Office.

Transmission of certificates of certain marriages to Secretary of State for India.

40. The Secretary to the Local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor-General of India in Council may desire that evidence shall be transmitted to England, and forward the same certificates signed by him to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths, and Marriages.

Correction of Errors.

41. Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof; and in case such certificate shall have been already transmitted to the Secretary to the Local Government, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made and copies of certificates given.

42. Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to a Local Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

43. All fees received under the provisions of this Act by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing

solemnizing a marriage, not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof.

44. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Register or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

45. Nothing contained in this Part shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852.

Marriage Registrars to be Christians and may be appointed *ex-officio*.

46. Every Marriage Registrar hereafter appointed under the provisions of the said Act V of 1852 shall be a Christian, and may be so appointed either by name or as holding any office for the time being.

PART V.

As to the Marriage of Native Christians.

Power to license persons to grant certificates of marriage between Native Christians.

47. And whereas it is expedient to make provision for the marriage of Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 are found not to be suitable, it is further enacted that it shall be lawful for the Local Government or the Chief Commissioner of any Province, to issue a license to any person being a Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians. Any such license may be revoked by the Government or Chief Commissioner by whom it was granted; and every such grant or revocation shall be notified in the Official Gazette.

Certificate may be given without previous notice of marriage.

48. It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V

Act V of 1852 or otherwise; and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act if the following conditions be fulfilled, and not otherwise :—

Conditions.

(1.) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years:

(2.) The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity:

(3.) Neither of the persons intending to be married shall have a wife or husband still living:

(4.) In the presence of the person so licensed and of at least two credible witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God and in the name of our Lord Jesus Christ do take thee, C. D., to be my lawful wedded wife *(or husband)*," or words to the like effect:

(5.) Such declaration shall be made between the hours of six in the morning and seven in the evening.

On marriage (the conditions having been fulfilled), licensed person to grant a certificate thereof.

49. When in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage, as conclusive evidence of the same marriage having been performed, and no evidence to the contrary shall be received in any such suit.

Marriages performed under the provisions of Section 48 to be valid.

50. All marriages performed between Native Christians as aforesaid, in accordance with the provisions of the forty-eighth Section, shall be valid.

Register Book to be kept.

51. A Register Book of all marriages of which certificates shall be granted under the forty-eighth Section shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the Local Government or Chief Commissioner shall from time to time prescribe, and

and true extracts therefrom duly authenticated shall be deposited at such places and at such times as the Local Government or Chief Commissioner shall direct.

Searches to be allowed in the Register Book.

52. Every person licensed under this Act to grant certificates of marriage and who shall have the custody of a Marriage Register Book under the last preceding Section, shall at all reasonable times allow search to be made in such Book in his custody, and shall give a copy certified under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

Part V not to apply to Roman Catholics.

53. This Part of this Act shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate any marriage contracted between Roman Catholics under the provisions of Part V of the said Act No. XXV of 1864.

PART VI.

As to Penalties.

Punishment for false oath, declaration, notice, or certificate, for procuring marriage.

54. Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in the hundred and ninety-third Section of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

55. Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in the hundred and fifth Section of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for a person not duly authorized solemnizing a marriage.

56. Whoever, not being authorized under the sixth Section to solemnize a marriage shall, from and after the commencement of this Act, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall profess the Christian

Christian Religion, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or if the offender be an European or American, to penal servitude according to the provisions of Act XXIV of 1855 *(to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts).)*

Punishment for solemnizing a marriage otherwise than between six A. M and seven P. M. or without witnesses.

57. Whoever shall, from and after the commencement of this Act, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine.

Section 57 not to apply to marriages solemnized under licenses.

58. The provisions of the last preceding Section shall not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he shall have received the general or special license in that behalf mentioned in the twenty-eighth Section.

Punishment for solemnizing marriage, when either party is a minor, within a certain time after notice.

59. Any Minister of Religion licensed to solemnize marriages under this Act, who shall, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnize a marriage when one of the parties to such marriage, not being a widower or widow, is a minor, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V of this Act.

Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

60. Whoever, being a Marriage Registrar appointed under the provisions of the said Act V of 1852, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the same Act without publishing or affixing in some conspicuous place the notice of such marriage as directed by such

such Act; or after expiration of two months after a certificate in respect of a marriage shall have been issued by him shall solemnize such marriage, or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the persons intending marriage (not being a widow or widower) is a minor, before the expiration of fourteen days after the receipt of such notice as is required by the same Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage to the Senior Marriage Registrar of the District, if there be more Marriage Registrars of the District than one, and if he himself be not the Senior Marriage Registrar, or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England Scotland or Rome, solemnizing marriages without publication of notices, &c.

61. Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of Banns or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of that Church, or not being a Clergyman of the Church of Rome solemnizing a marriage according to the rites, rules, ceremonies and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II of this Act, or after the expiration of two months after the certificate shall have been issued by him; or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the Post or otherwise a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act by any person authorized to forbid the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

62. Whoever

62. Whoever, not being licensed to grant a certificate of marriage under Part V of this Act, shall grant such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for unlicensed person pretending to grant certificate of marriage under Part V.

63. Whoever shall wilfully destroy or injure or cause to be destroyed or injured any such Register Book, or any part thereof, or any such authenticated extract therefrom as aforesaid, or shall wilfully insert or cause to be inserted any false entry in any such Register Book or authenticated extract, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to seven years, and shall also be liable to fine.

Punishment for destroying or falsifying Register Books.

64. Persons tried for offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the same Code: Provided that no European British subject shall be liable to be tried for any offence punishable under this Act except before a Judge of the High Court. In every case in which an European British subject shall be charged before a Justice of the Peace or Magistrate at any place beyond the local limits of the ordinary original Civil jurisdiction of the High Court with any offence under this Act, such charge shall be investigated, and the committal and trial for such offence shall be made and held, according to the rules by which the Criminal Procedure of the High Court may from time to time be regulated.

Jurisdiction to try persons for offences punishable under this Act.

65. Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act: Provided that a summons shall ordinarily issue in the first instance, and that all offences punishable under this Act shall be bailable.

Code of Criminal Procedure applicable to investigations and committals under this Act.

66. The Supreme Court of Judicature in the Settlement of Prince of Wales' Island, Singapore and Malacca shall have power to try offences punishable under this Act and committed within the limits of such Settlement. The charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court shall from time to time be regulated. The penalties (if any) imposed on persons charged as aforesaid shall correspond as nearly as may be with the penalties which might have been imposed on such persons had the Indian Penal Code been then in force in the said Settlement.

Supreme Court of Straits' Settlement to try and punish offences under this Act.

Schedule A.

SCHEDULE A—(*See Section* 11.)

Notice of Marriage.

To *the Reverend John Brown*, a Minister of the *Free Church of Scotland, at Calcutta.*

I hereby give you notice, that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say),

Names.	Condition.	Rank or Profession.	Age.	Dwelling-place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	20, *Hastings' Street.*	*More than a month.*		

Witness my hand, this *sixth* day of *July, one thousand eight hundred and sixty-five.*

(*Signed*) *JAMES SMITH.*

(The *Italics* in this Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District).

SCHEDULE B—(*See Section* 24,

Registrar's Certificate.

I, *the Reverend John Brown, Minister of the Free Church of Scotland at Calcutta in Bengal*, do hereby certify, that on the *sixth* day of *July* 1865, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith*, one of the parties (that is to say),

Names.	Condition.	Rank or Profession.	Age.	Dwelling-Place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	*23 days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	20, *Hastings' Street.*	*More than a month.*		

and that the declaration required by Section nineteen of "The Indian Marriage Act, 1865" has been duly made by the said (*James Smith*).

Date of notice entered *sixth July* 1865.

Date of certificate given *twentieth July* 1865.

The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this *twentieth* day of *July one thousand eight hundred and sixty-five.*

(*Signed*) *JOHN BROWN.*
Minister of the Free Church of Scotland.

This Certificate will be void unless the marriage is solemnized on or before the *twentieth* day of *September* 1865.

(The *Italics* in the Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District).

ACT No. V of 1865.

SCHEDULE C.—(*See Section* 30.)

Form of Register of Marriages.

Quarterly Returns
of
MARRIAGES
for
The Archdeaconry of ... { *Calcutta,* / *Madras,* / *Bombay,*

I, Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* do hereby certify, that the annexed are correct copies of the original and official Quarterly Returns of Marriages within the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* as made and transmitted to me for the Quarter commencing the *first* day of *October* ending the *thirty-first* day of *December*, in the Year of Our Lord *One Thousand Eight Hundred and Sixty-five*

[*Signature of Registrar*]

Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay.*

MARRIAGES solemnized at { *Allahabad,* / *Barrackpore,* / *Bareilly,* / *Calcutta, &c., &c.*

When married.			Names of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.	By Banns or License.	Signatures of the Parties.	Signatures of two or more Witnesses present.	Signature by whom married
Year.	Month.	Day.	Christian.	Surname.									

Schedule D.

SCHEDULE D—(*See Section* 34).

MARRIAGE REGISTER BOOK.

No.	When Married. Day.	Month.	Year.	Names of Parties. Christian.	Surname.	Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's name and surname.
1	26th	July	1865	*James* ...	*White* ...	26 *years*	*Widower*	*Carpenter*	*Agra*...	*William White.*
				Martha .	*Duncan* .	17 *years*	*Spinster*	.....	*Agra*...	*John Duncan.*

Married in the *Free Church of Scotland Church, Agra.*

JOHN YOUNG, Minister of the Free Church of Scotland.

This marriage was solemnized between us { *James White* / *Martha Duncan,* } in the presence of us { *John Smith.* / *John Green.* }

CERTIFICATE OF MARRIAGE.

No.	When Married. Day.	Month.	Year.	Names of Parties. Christian.	Surname.	Age.	Condition.	Rank or Profession.	Residence at the time of marriage.	Father's Name and Surname.
1	26th	July	1865	*James* ...	*White* ...	26 *years*	*Widower*	*Carpenter*	*Agra*..	*William White.*
				Martha .	*Duncan* .	17 *years*	*Spinster*	.....	*Agra*...	*John Duncan.*

Married in the *Free Church of Scotland Church, Agra.*

JOHN YOUNG, Minister of the Free Church of Scotland.

This marriage was solemnized between us { *James White* / *Martha Duncan,* } in the presence of us { *John Smith.* / *John Green.* }

Military Orphan Press.

ACT. No. VI OF 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd February 1865).

An Act to continue Act No. XXXI of 1860 (relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases).

Preamble.

Whereas Act No. XXXI of 1860 is limited to expire on the first day of October 1865; and whereas it is expedient to continue such Act for a limited period; It is enacted as follows :—

Act XXXI of 1860 continued.

1. Act No. XXXI of 1860 shall continue in force until the first day of October 1866.

Short Title.

2. This Act may be cited as "The Arms' Act Continuance Act, 1865."

PRICE ONE ANNA.

ACT No. VII OF 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 24th February* 1865).

An Act to give effect to Rules for the management and preservation of Government Forests.

Preamble.

WHEREAS it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of Forests wherein rights are vested in Her Majesty for the purposes of the Government of India; It is enacted as follows:—

Interpretation Clause.

1. In this Act, unless there be something repugnant in the subject or context—

"Government Forests."

"Government Forests" shall mean such land covered with trees, brushwood or jungle, as shall be declared in accordance with the second Section of this Act to be subject to its provisions

"Magistrate."

"Magistrate" shall mean the Chief Officer charged with the Executive administration of a district or place in criminal matters by whatever designation such Officer is called, and shall include any person invested by the Local Government with the powers of a Magistrate or of a subordinate Magistrate as defined in the Code of Criminal Procedure, with a view to the exercise by him of such powers under this Act.

"Local Government."

And in every part of British India in which this Act operates, "Local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the Governor General in Council to exercise the powers of a Local Government under this Act.

Governor General in Council and the Local Governments may render certain lands subject to the provisions of this Act.

2. The Governor-General of India in Council within the Provinces under his immediate administration, and the Local Governments within the Territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act, such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification: Provided that

PRICE

that such notification shall not abridge or affect any existing rights of individuals or communities.

Local Governments may make Rules for management and preservation of Forests, and for regulating the conduct of persons employed on them.

3. For the management and preservation of any Government Forests or any part thereof in the Territories under their control, the Local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from time to time may, subject to the like confirmation, repeal, alter, and amend the same. Such Rules shall not be repugnant to any law in force.

What may be provided for by Rules made in pursuance of this Act.

4. Rules made in pursuance of this Act may provide for the following matters :—

First.—The preservation of all growing trees, shrubs, and plants, within Government Forests or of certain kinds only —by prohibiting the marking, girdling, felling, and lopping thereof, and all kinds of injury thereto; by prohibiting the kindling of fires so as to endanger such trees, shrubs, and plants; by prohibiting the collecting and removing of leaves, fruits, grass, wood-oil, resin, wax, honey, elephants' tusks, horns, skins and hides, stones, lime, or any natural produce of such Forests; by prohibiting the ingress into and the passage through such Forests, except on authorized roads and paths; by prohibiting cultivation and the burning of lime and charcoal, and the grazing of cattle within such Forests.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests or used for the transport of timber or other the produce of such Forests—by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of or otherwise interfering with streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain Stations on such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government.

Third.—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohibiting the converting or cutting into pieces or burning of any timber, or the disposal of such timber by sale or otherwise, by any person not the lawful owner of such timber, or not acting on behalf of the owner; by regulating

regulating the manner in which property-marks shall be affixed to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber or acting on behalf of the owner, so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting within certain territorial limits the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry within certain territorial limits of implements for affixing property-marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.— The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act and the collecting of Forest dues or revenues.

Power to Local Government to prescribe punishments for infringement of Rules.

5. In cases where the penalty of confiscation is not provided by this Act, the Local Government may prescribe punishments for the infringement of Rules made in pursuance thereof, by fine not exceeding five hundred rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in the sixty-seventh Section of the Indian Penal Code.

Rules when confirmed and published to have the force of law.

6. Such Rules when confirmed by the Governor General in Council and published in the Official Gazette shall have the force of law.

Confiscation in case of infringement of Rules.

7. All implements used in infringing any of the Rules made in pursuance of this Act, and all timber or other Forest produce, removed or attemped to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

Arrest and seizure in case of infringement of Rules.

8. Any Police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act may arrest any person infringing any of such Rules, and may seize any implements used in such infringement, and any timber liable to confiscation under this Act.

9. Any

Procedure in case of arrest.

9. Any person arrested on the ground that he has committed an infringement of such Rules shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

The causing or procuring a punishable act to be done is punishable in the same manner as the doing of the act.

10. Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

Procedure in respect of property seized as liable to confiscation.

11. When any timber or other property shall be seized as liable to confiscation under this Act, any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

Penalty for vexatious seizures and arrests.

12. Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

Enforcement of confiscations and penalties under Rules.

13. All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

Property on confiscation to vest in Her Majesty.

14. When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a Warrant shall be issued by the Court to a Police Officer directing him to hold the property confiscated at the disposal of the Local Government.

Remission of penalties.

15. When any confiscation or penalty shall be adjudged under this Act, the Local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

16. No

Limitation of suits under this Act.

16. No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceeding and of the cause thereof; nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Period within which charges to be brought.

17. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Extent of Act.

18. This Act shall extend to all the Territories under the immediate administration of the Government of India and under the Governments of Bengal, the North-Western Provinces, and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in the Official Gazette, to extend this Act to the Territories under their respective Governments.

Commencement of Act. Short Title.

19. This Act shall come into operation on the first day of May 1865, and may be cited as "The Government Forests, Act, 1865."

Military Orphan Press.

ACT No. VIII of 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th February 1865).

An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction.

Preamble.

Whereas it is expedient to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil jurisdiction, and to indemnify the Sheriff of the said High Court and others in respect of such imprisonment; It is enacted as follows:—

Arrests, &c., heretofore made to be deemed good, though not in accordance with the Civil Procedure Code.

1. All arrests made subsequently to the establishment of the High Court of Judicature at Fort William in Bengal and before the passing of this Act, in execution of any process issued by the said Court in the exercise of its ordinary original Civil jurisdiction, and the detention and imprisonment of all persons so arrested, shall for all purposes be deemed to be and always to have been as valid and effectual as if such arrests, detentions, and imprisonments had been in accordance with the provisions of the Code of Civil Procedure.

No suit to lie for any such illegal arrest, &c.

2. No suit or proceeding shall be maintained in any Court on the ground that any such arrest, detention, or imprisonment as referred to in the preceding Section and thereby made valid and effectual, was illegal or invalid by reason of its not having been in accordance with the said Code of Civil Procedure, or of the omission of the Sheriff or Deputy Sheriff of the said High Court to conform to any of the provisions of the said Code.

Extension of the Act to the High Courts of Madras and Bombay.

3. The Governor in Council of Fort Saint George, and the Governor in Council of Bombay, may, by an order to be published in the Official Gazettes of Madras and Bombay respectively, extend this Act so as to apply to arrests, imprisonments, and detentions under process issued by the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, respectively, on or before the first day of March 1865. When so extended this Act shall in all respects apply to each of the said High Courts in the same manner as if the names of such Courts had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

PRICE ONE ANNA.

THE INDIAN SUCCESSION ACT, 1865.

ARRANGEMENT OF SECTIONS.

PART I.

Preliminary.

SECTION.

1. Short title.
2. This Act to constitute the law of British India in cases of Intestate or Testamentary Succession.
3. Interpretation Clause.
4. Interests and powers not acquired nor lost by marriage.

PART II.

Of Domicile.

5. Law regulating succession to a deceased person's immoveable and moveable property, respectively.
6. One domicile only affects succession to moveables.
7. Domicile of origin of person of legitimate birth.
8. Domicile of origin of illegitimate child.
9. Continuance of domicile of origin.
10. Acquisition of new domicile.
11. Special mode of acquiring domicile in British India.
12. Domicile not acquired by residence in a country merely as the representative of a foreign Government, or by residence with him as part of his family or as a servant.
13. Continuance of new domicile.
14. Minor's domicile.
15. Domicile acquired by a woman on marriage.
16. Wife's domicile during marriage.

PRICE TWO RUPEES AND EIGHT ANNAS.

SECTION.

17. Except in cases stated, minor cannot acquire a new domicile.

18. Lunatic's acquisition of new domicile.

19. Succession to a person's moveable property in British India, in absence of proof of his domicile elsewhere.

PART III.

Of Consanguinity.

20. Kindred or consanguinity.

21. Lineal consanguinity.

22. Collateral consanguinity.

23. Persons held for purpose of succession to be similarly related to the deceased.

24. Mode of computing degrees of kindred.

PART IV.

Of Intestacy.

25. As to what property a deceased person is considered to have died intestate.

26. Devolution of such property.

27. Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred.

28. Where the intestate has left no widow, and where he has left no kindred.

PART V.

Of the Distribution of an Intestate's Property.

(a) Where he has left lineal Descendants.

29. Rules of distribution.

30. Where the intestate has left a child or children only.

31. Where the intestate has left no child, but a grandchild or grandchildren.

32. Where the intestate has left only great-grandchildren or lineal descendants in a remoter degree.

SECTION.

33. Where the intestate leaves lineal descendants not all in the same degree of kindred to him, and those through whom the more remote descend are dead.

(b) Where the Intestate has left no lineal Descendants.

34. Rules of distribution where the intestate has left no lineal descendants.

35. Where intestate's father is living.

36. Where intestate's father is dead, but his mother, brothers and sisters are living.

37. Where intestate's father is dead, and his mother, a brother or sister, and children of any deceased brother or sister are living.

38. Where intestate's father is dead, and his mother and the children of any deceased brother or sister are living.

39. Where intestate's father is dead, but his mother is living and there is no brother nor sister nor nephew.

40. Where intestate has left neither lineal descendant nor father nor mother.

41. Where intestate has left neither lineal descendant, nor parent, nor brother nor sister.

42. Children's advancements not to be brought into hotchpot.

PART VI.

Of the Effect of Marriage and Marriage Settlements on Property.

43. Rights of widower and widow respectively.

44. No rights to property not comprised in an antenuptial settlement, acquired by marriage between a person domiciled and a person not domiciled in British India.

45. Settlement of minor's property in contemplation of marriage.

PART VII.

Of Wills and Codicils.

46. Persons capable of making Wills.

47. Testamentary guardian.

48. Will obtained by fraud, coercion or importunity.

49. Will may be revoked or altered.

SECTION.

PART VIII.

Of the Execution of unprivileged Wills.

50. Execution of unprivileged Wills.

51. Incorporation of papers by reference.

PART IX.

Of Privileged Wills.

52. Privileged Will.

53. Mode of making, and rules for executing, privileged Wills.

PART X.

Of the Attestation, Revocation, Alteration and Revival of Wills.

54. Effect of gift to attesting witness.

55. Witness not disqualified by interest or by being executor.

56. Revocation of Will by testator's marriage.

Power of appointment defined.

57. Revocation of unprivileged Will or Codicil.

58. Effect of obliteration, interlineation, or alteration in unprivileged Will.

59. Revocation of privileged Will or Codicil.

60. Revival of unprivileged Will.

Extent of revival of Will or Codicil partly revoked and afterwards wholly revoked.

PART XI.

Of the Construction of Wills.

61. Wording of Will.

62. Enquiries to determine questions as to object or subject of Will.

63. Misnomer or misdescription of object.

64. When words may be supplied.

65. Rejection of erroneous particulars in description of subject.

66. When part of description may not be rejected as erroneous.

67. Extrinsic evidence admissible in case of latent ambiguity.

68. Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

SECTION.

69. Meaning of any clause to be collected from entire Will.

70. When words may be understood in a restricted sense, and when in a sense wider than usual.

71. Where a clause is open to two constructions, that which has some effect is to be preferred.

72. No part of Will to be rejected, if reasonable construction can be put on it.

73. Interpretation of words repeated in different parts of Will.

74. Testator's intention to be effectuated as far as possible.

75. The last of two inconsistent clauses prevails.

76. Will or bequest void for uncertainty.

77. Words describing subject refer to property answering that description at testator's death.

78. Power of appointment executed by general bequest.

79. Implied gift to the objects of a power in default of appointment.

80. Bequest to "heirs," &c., of a particular person without qualifying terms.

81. Bequest to "representatives," &c., of a particular person.

82. Bequest without words of limitation.

83. Bequest in the alternative.

84. Effect of words describing a class added to a bequest to a person.

85. Bequest to a class of persons under a general description only.

86. Construction of terms.

87. Words expressing relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

88. Rules of construction where a Will purports to make two bequests to the same person.

89. Constitution of residuary legatee.

90. Property to which a residuary legatee is entitled.

91. Time of vesting of legacy in general terms.

92. In what case a legacy lapses.

93. A legacy does not lapse if one of two joint legatees die before the testator.

94. Effect in such a case, of words showing testator's intention that the shares should be distinct.

SECTION

95. When lapsed share goes as undisposed of.

96. When a bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

97. Bequest to A for the benefit of B does not lapse by A's death in testator's lifetime

98. Survivorship in case of bequest to a described class.

PART XII

Of void Bequests.

99. Bequest to a person by a particular description, who is not in existence at the testator's death.

100. Bequest to a person not in existence at the testator's death, subject to a prior bequest.

101. Rule against perpetuity.

102. Bequest to a class, some of whom may come under the rules in Sections 100 and 101.

103. Bequest to take effect on failure of bequest void under Sections 100, 101 or 102.

104. Effect of direction for accumulation.

105. Bequest to religious or charitable uses.

PART XIII.

Of the Vesting of Legacies.

106. Date of vesting of legacy when payment or possession postponed.

107. Date of vesting when legacy is contingent upon a specified uncertain event.

108. Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

PART XIV.

Of Onerous Bequests.

109. Onerous bequest.

110. One of two separate and independent bequests to same person may be accepted, and the other refused.

SECTION.

PART XV.

Of Contingent Bequests.

111. Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

112. Bequest to such of certain persons as shall be surviving at some period not specified.

PART XVI.

Of Conditional Bequests.

113. Bequest upon impossible condition.

114. Bequest upon illegal or immoral condition.

115. Fulfilment of condition precedent to the vesting of a legacy.

116. Bequest to A and, on failure of the prior bequest, to B.

117. Case in which the second bequest shall not take effect on failure of the first.

118. Bequest over, conditional upon the happening or not happening of a specified uncertain event.

119. Condition must be strictly fulfilled.

120. Original bequest not affected by invalidity of second.

121. Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

122. Such condition must not be invalid under Section 107.

123. Result of legatee rendering impossible or indefinitely postponing an act for which no time is specified and on the non-performance of which the subject-matter is to go over.

124. Performance of condition, precedent or subsequent, within specified time. Further time allowed in case of fraud.

PART XVII.

Of Bequests with Directions as to Application or Enjoyment.

125. Direction that funds be employed in a particular manner following an absolute bequest of the same to or for the benefit of any person.

126. Direction that a mode of enjoyment of absolute bequest is to be restricted, to secure a specified benefit for the legatee.

SECTION.

127. Bequest of a fund for certain purposes, some of which cannot be fulfilled.

PART XVIII.

Of Bequests to an Executor.

128. Legatee named as executor cannot take unless he shows intention to act as executor.

PART XIX.

Of Specific Legacies.

129. Specific legacy defined.

130. Bequest of a sum certain where the stocks, &c., in which it is invested are described.

131. Bequest of stock where the testator had at the date of his Will an equal or greater amount of stock of the same kind.

132. Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

133. When enumerated articles are not to be deemed to be specifically bequeathed.

134. Retention in form of specific bequest to several persons in succession.

135. Sale and investment of proceeds of property bequeathed to two or more persons in succession.

136. Where there is a deficiency of assets to pay legacies, specific legacy not liable to abate with general legacies.

PART XX.

Of Demonstrative Legacies.

137. Demonstrative legacy defined.

138. Order of payment when legacy is directed to be paid out of a fund the subject of a specific legacy.

PART XXI.

Of Ademption of Legacies.

139. Ademption explained.

SECTION.

140. Non-ademption of domonstrative legacy.

141. Ademption of specific bequest of right to receive something from a third party.

142. Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

143. Ademption *pro tanto* by testator's receipt of portion of an entire fund of which a portion has been specifically bequeathed.

144. Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

145. Ademption where stock, specifically bequeathed, does not exist at testator's death.

146. Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

147. Non-ademption of specific bequest of goods described as connected with a certain place by reason of removal.

148. When removal of thing bequeathed does not constitute ademption.

149. When the thing bequeathed is a valuable to be received by the testator from a third person; and the testator himself, or his representative, receives it.

150. Change by operation of law of subject of specific bequest between date of Will and testator's death.

151. Change of subject without testator's knowledge.

152. Stock specifically bequeathed, lent to a third party on condition that it shall be replaced.

153. Stock specifically bequeathed, sold but replaced and belonging to the testator at his death.

PART XXII.

Of the Payment of Liabilities in respect of the Subject of a Bequest.

154. Non-liability of executor to exonerate specific legatees.

155. Completion of testator's title to things bequeathed to be at cost of his estate.

SECTION.

156. Exoneration of legatee's immoveable property for which land revenue or rent is payable periodically.

157. Exoneration of specific legatee's stock in a Joint Stock Company.

PART XXIII.

Of Bequests of Things described in general Terms.

158. Bequest of thing described in general terms.

PART XXIV.

Of Bequests of the Interest or Produce of a Fund.

159. Bequest of the interest or produce of a fund.

PART XXV.

Of Bequests of Annuities.

160. Annuity created by Will is payable for life only, unless a contrary intention appears by the Will.

161. Period of vesting where Will directs that an annuity be provided out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity.

162. Abatement of annuity.

163. Where there is a gift of an annuity, and a residuary gift, the whole of the annuity to be first satisfied.

PART XXVI.

Of Legacies to Creditors and Portioners.

164. Creditor *primâ facie* entitled to legacy as well as debt.

165. Child *primâ facie* entitled to legacy as well as portion.

166. No ademption by subsequent provision for legatee.

PART XXVII.

Of Election.

167. Circumstances in which election takes place.

SECTION.

168. Devolution of interest relinquished by the owner.

169. Testator's belief as to his ownership immaterial.

170. Bequest for a man's benefit how regarded for the purpose of election.

171. A person deriving a benefit indirectly not put to his election.

172. A person taking under a Will in his individual capacity, may in another character elect to take in opposition to it.

173. When acceptance of a benefit given by a Will constitutes an election to take under the Will.

174. Presumption arising from enjoyment by legatee for two years.

175. Confirmation of bequest by act of legatee.

176. When testator's representatives may call upon legatee to elect.
Effect of non-compliance with their request within a reasonable time.

177. Postponement of election in case of disability.

PART XXVIII.

Of Gifts in Contemplation of Death.

178. Property transferable by gift made in contemplation of death.
When a gift is said to be made in contemplation of death.
Such gift resumable.
When it fails.

PART XXIX.

Of Grant of Probate and Letters of Administration.

179. Character and property of executor or administrator as such.

180. Administration with copy annexed of authenticated copy of Will proved abroad.

181. Probate to be granted to executor appointed by Will.

182. Appointment express or implied.

183. Persons to whom probate cannot be granted.

184. Grant of probate to several executors simultaneously or at different times.

185. Separate probate of Codicil discovered after grant of probate.
Procedure when different executors are appointed by the Codicil.

SECTION.

186. Accrual of representation to surviving executor.

187. No right as executor or legatee can be established, unless probate or letters of administration shall have been granted by a competent Court.

188. Probate establishes the Will from testator's death.

189. Persons to whom letters of administration may not be granted.

190. No right to intestate's property can be established, unless administration previously granted by a competent Court.

191. From what period letters of administration entitle administrator to intestate's rights.

192. Acts of administrator not validated by letters of administration.

193. Grant of administration where executor has not renounced.
Exception.

194. Form and effect of renunciation of executorship.

195. Procedure where executor renounces or fails to accept within the time limited.

196. Grant of administration to universal or residuary legatee.

197. Right to administration of representative of deceased residuary legatee.

198. Grant of administration when there is no executor, nor residuary legatee, nor representative of such legatee.

199. Citation to be issued before grant of administration to any legatee other than universal or residuary.

200. Order in which connections by marriage or consanguinity are entitled to administration.

201. Administration to be granted to widow unless Court see cause to exclude her.

202. Persons associated with widow in administration.

203. Grant of administration where no widow, or widow excluded.
Proviso.

204. Deceased's kindred of equal degree, equally entitled to administration.

205. Right of widower to administration of wife's estate.

206. Grant of administration to a creditor.

SECTION.

207. Where deceased has left property in British India, administration must be granted according to the foregoing rules.

PART XXX.

Of Limited Grants.

(*a*). *Grants Limited in Duration.*

208. Probate of copy or draft of lost Will.
209. Probate of contents of lost or destroyed Will.
210. Probate of copy where original exists.
211. Administration until the Will be produced.

(*b*.) *Grants for the Use and Benefit of Others having Right.*

212. Administration, with the Will annexed, to attorney of an absent executor.
213. Administration, with the Will annexed, to attorney of an absent person, who, if present, would be entitled to administer.
214. Administration to attorney of absent person entitled to administer in case of intestacy.
215. Administration during minority.
216. Administration until one of several minor executors or residuary legatees attains majority.
217. Administration for use and benefit of lunatic *jus habens.*
218. Administration *pendente lite.*

(*c*). *For Special Purposes.*

219. Probate limited to purpose specified in the Will.
220. Administration with the Will annexed limited to a particular purpose.
221. Administration limited to property in which a person has a beneficial interest.
222. Administration limited to a suit.
223. Administration limited to the purpose of becoming a party to a suit to be brought against administrator.
224. Administration limited to collection and preservation of deceased's property.
225. Appointment as administrator, of person other than the one who under ordinary circumstances would be entitled to administration.

SECTION.

(*d*). *Grants with Exception.*

226. Probate or administration with the Will annexed, subject to exception.
227. Administration with exception.

(*e*). *Grants of the Rest.*

228. Probate or administration of the rest.

(*f*). *Grants of Effects unadministered.*

229. Grant of effects unadministered.
230. Rules as to grants of effects unadministered.
231. Administration when a limited grant has expired, and there is still some part of the estate unadministered.

(*g*). *Alteration in Grants.*

232. What errors may be rectified by the Court.
233. Procedure where Codicil discovered after grant of administration with Will annexed.

(*h*). *Revocation of Grants.*

234. Revocation or annulment for just cause, of grant of probate or administration.
Just cause.

PART XXXI.

Of the Practice in granting and revoking Probates and Letters of Administration.

235. Jurisdiction of District Judge in granting and revoking probates and letters of administration.
236. District Judge's powers as to the granting of probate and administration.
237. District Judge may order any person to produce testamentary papers.
238. Proceedings of District Judge's Court in relation to probate and administration.
239. When and how District Judge is to interfere for the protection of property.
240. Probate or administration may be granted by District Judge, when testator or intestate at his death had a fixed dwelling or any property within the jurisdiction.
241. When application is made to the Judge of a District in which the deceased had no fixed abode.
242. Conclusiveness of probate or letters of administration.

SECTION.

243. Conclusiveness of application for probate or administration, if properly made and verified.

244. Petition for probate.

245. In what cases translation of Will to be annexed to the petition.

Verification of translation made by any person other than the Court translator.

246. Petition for letters of administration.

247. Petition for probate or letters of administration to be signed and verified.

248. Verification of petition for probate by one of the witnesses to the Will.

249. Punishment for making false averment in petition or declaration.

250. District Judge may examine petitioner in person and require further evidence, and issue citations to inspect the proceedings.

Publication of citation.

251. Caveat against grant of probate or administration.

252. Form of caveat.

253. After entry of caveat, no proceeding to be taken on the petition until after notice to the caveator.

254. Grant of probate to be under seal of the Court.

From of such grant.

255. Grant of letters of administration to be under seal of Court.

From of such grant.

256. Administration bond.

257. Assignment of administration bond.

258. Probate not to be granted until after seven days, and letters of administration until after fourteen days, from the testator's or intestate's death.

259. Filing of original Wills of which probate or letters of administration with Will annexed have been granted.

260. Grantee of probate or letters of administration shall alone have power to sue, &c., until the same shall have been revoked.

261. Procedure in contentious cases.

262. Payment to executor or administrator before probate or letters of administration revoked.

Right of such executor or administrator to recoup himself for payments.

263. Appeals from orders made by District Judge under powers conferred by this Act.

264. Concurrent jurisdiction of High Court.

SECTION.

PART XXXII.

Of Executors of their own Wrong.

265. Executor of his own wrong.
266. Liability of an executor of his own wrong.

PART XXXIII.

Of the Powers of an Executor or Administrator.

267. In respect of causes of action surviving the deceased, and rents due at the time of his death.
268. Demands and rights of action in favour of or against deceased, survive to and against his executor or administrator.
269. Power of executor or administrator to dispose of deceased's property.
270. Purchase by executor or administrator of deceased's property.
271. Powers of several executors or administrators, exerciseable by one.
272. Survival of powers on death of one of several executors or administrators.
273. Powers of administrator of effects unadministered.
274. Powers of administrator during minority.
275. Powers of married executrix or administratrix.

PART XXXIV.

Of the Duties of an Executor or Administrator.

276. As to deceased's funeral.
277. Inventory and account.
278. Duty of executor or administrator as to property of, and debts owing to, the deceased.
279. Expenses to be paid before all debts.
280. Expenses to be paid next after such expenses.
281. Wages for certain services to be next paid, and then the other debts.
282. Save as aforesaid, all debts to be paid equally and rateably.
283. Application of moveable property to payment of debts, where the deceased's domicile was not in British India.
284. Creditor paid in part under Section 283 to bring such payment into account before sharing in proceeds of immoveable property.

SECTION.

285. Debts to be paid before legacies.
286. Executor or administrator not bound to pay legacies without indemnity.
287. Abatement of general legacies.
Executor not to pay one legatee in preference to another.
288. Non-abatement of specific legacy when assets sufficient to pay debts.
289. Right under demonstrative legacy, when the assets are sufficient to pay debts and necessary expenses.
290. Rateable abatement of specific legacies.
291. Legacies treated as general for purpose of abatement.

PART XXXV.

Of the Executor's Assent to a Legacy.

292. Executor's assent necessary to complete legatee's title.
293. Effect of executor's assent to specific legacy.
Assent may be verbal, and either express or implied.
294. Conditional assent.
295. Assent of executor to his own legacy.
Implied assent.
296. Assent of executor gives effect to legacy from testator's death.
297. Executor not bound to pay or deliver legacies until after one year from testator's death.

PART XXXVI.

Of the Payment and Apportionment of Annuities.

298. Commencement of annuity when no time fixed by Will.
299. When payment of annuity to be paid quarterly or monthly first falls due.
300. Dates of successive payments when first payment of an annuity directed to be made within a given time, or on a day certain.
Apportionment where annuitant dies between times of payment.

PART XXXVII.

Of the Investment of Funds to provide for Legacies.

301. Investment of sum bequeathed where a legacy, not specific, is given for life.

SECTION.

302. Investment of amount of general legacy to be paid at a future time. Intermediate interest.
303. Procedure when no fund is charged with or appropriated to an annuity.
304. Transfer to residuary legatee of amount of contingent bequest.
305. Investment of residue bequeathed to a person for life, without direction to invest in particular securities.
306. Investment of residue bequeathed to a person for life, with direction to invest in specified securities.
307. Time and manner of the conversion and investment.
Interest payable until investment.
308. Procedure where minor is entitled to immediate payment or possession of bequest, and there is no direction to pay to any person on his behalf.

PART XXXVIII.

Of the Produce and Interest of Legacies.

309. Legatee of a specific legacy entitled to produce thereof from testator's death.
310. Residuary legatee entitled to produce of residuary fund from testator's death.
311. Interest when no time is fixed for payment of a general legacy.
312. Interest when time has been fixed.
313. Rate of interest.
314. No interest payable on arrears of annuity within first year after testator's death.
315. Interest payable on sum to be invested to produce annuity.

PART XXXIX.

Of the Refunding of Legacies.

316. Refund of legacy paid under Judge's orders.
317. No refund if legacy paid voluntarily.
318. Refund when legacy has become due on performance of a condition within further time allowed under Section 124.
319. When each legatee is compellable to refund in proportion.
320. Distribution of assets.
Creditor may follow assets.

SECTION.

321. Within what period a creditor may call upon a legatee to refund.

322. When a legatee who has not received payment or who has been compelled to refund under Section 321, cannot oblige one who has received payment in full to refund.

323. When an unsatisfied legatee must first proceed against executor, if solvent.

324. Limit to the refunding of one legatee to another.

325. Refunding to be without interest.

326. Residue of the deceased's property after usual payments to be paid to residuary legatee.

PART XL.

Of the Liability of an Executor or Administrator for Devastation.

327. Liability of executor or administrator for devastation.

328. For neglect to get in any part of the deceased's property

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PART XLI.

Miscellaneous.

329. Stamps and fees on instruments mentioned in this act.

330. Saving of rights, duties, and privileges of Administrator-General.

331. Succession to property of Hindús, Muhammadans or Buddhists, and certain Wills, intestacies and marriages, not affected by this Act.

332. Power of Governor-General to exempt any race, sect or tribe in British India from the operation of this Act.

BENGAL SECRETARIAT LIBRARY

ACT No. X of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 16*th March* 1865).

An Act to amend and define the Law of Intestate and Testamentary Succession in British India.

Preamble.

WHEREAS it is expedient to amend and define the rules of law applicable to Intestate and Testamentary Succession in British India; It is enacted as follows:—

PART I.

Preliminary.

Short Title.

1. This Act may be cited as "The Indian Succession Act, 1865."

This Act to constitute the law of British India in cases of Intestate or Testamentary Succession.

2. Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of British India applicable to all cases of Intestate or Testamentary Succession.

3. In

Interpretation Clause.

3. In this Act, unless there be something repugnant in the subject or context—

"Number." "Gender."

Words importing the singular number include the plural: words importing the plural number include the singular; and words importing the male sex include females.

"Person."

"Person" includes any Company or Association, or body of persons, whether incorporated or not.

"Year." "Month."

"Year" and "Month" respectively mean a year and month reckoned according to the British Calendar.

"Immoveable property."

"Immoveable property" includes land, incorporeal tenements and things attached to the earth, or permanently fastened to anything which is attached to the earth.

"Moveable property."

"Moveable property" means property of every description except immoveable property.

"Province."

"Province" includes any division of British India having a Court of the last resort.

"British India."

"British India" means the Territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., Cap. 106 (*An Act for the better Government of India*) other than the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"District Judge."

"District Judge" means the Judge of a principal Civil Court of original jurisdiction.

"Minor." "Minority."

"Minor" means any person who shall not have completed the age of eighteen years, and "minority" means the status of such person.

"Will"

"Will."

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death.

"Codicil."

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the Will.

"Probate."

"Probate" means the copy of a Will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator.

"Executor."

"Executor" means a person to whom the execution of the last Will of a deceased person is, by the testator's appointment, confided.

"Administrator."

"Administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor.

"Local Government." "High Court."

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part; and "High Court" shall mean the highest Civil Court of Appeal therein.

Interests and powers not acquired nor lost by marriage.

4. No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried.

ACT No. X of 1865.

PART II.

Of Domicile.

Law regulating succession to a deceased person's immoveable and moveable property, respectively.

5. Succession to the immoveable property in British India of a person deceased is regulated by the law of British India, wherever he may have had his domicile at the time of his death. Succession to the moveable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

Illustrations.

(*a.*) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(*b.*) A, an Englishman having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

One domicile only affects succession to moveables.

6. A person can only have one domicile for the purpose of succession to his moveable property.

Domicile of origin of person of legitimate birth.

7. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled: or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

Illustration.

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

8. The

Domicile of origin of illegitimate child.

8. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Continuance of domicile of origin.

9. The domicile of origin prevails until a new domicile has been acquired.

Acquisition of new domicile.

10. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Explanation.—A man is not to be considered as having taken up his fixed habitation in British India merely by reason of his residing there in Her Majesty's Civil or Military Service, or in the exercise of any profession or calling.

Illustrations.

(*a*) A, whose domicile of origin is in England, proceeds to British India, where he settles as a Barrister or a Merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(*b*) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(*c*) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the British Indian Government for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(*d*) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(*e*) A, having gone to reside in British India under the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(*f*) A, whose

(*f*) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(*g*) A, having come to Calcutta under the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

Special mode of acquiring domicile in British India.

11. Any person may acquire a domicile in British India by making and depositing in some Office in British India (to be fixed by the Local Government), a declaration in writing under his hand of his desire to acquire such domicile, provided that he shall have been resident in British India for one year immediately preceding the time of his making such declaration.

Domicile not acquired by residence in a country merely as the representative of a foreign Government, or by residence with him as part of his family or as a servant.

12. A person who is appointed by the Government of one country to be its ambassador, consul or other representative in another country, does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with him as part of his family or as a servant.

Continuance of new domicile.

13. A new domicile continues until the former domicile has been resumed, or another has been acquired.

Minor's domicile.

14. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

Exception.—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of Her Majesty, or has set up, with the consent of the parent, in any distinct business.

15. By

Domicile acquired by a woman on marriage.

15. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

16. The wife's domicile during the marriage follows the domicile of her husband.

Exception.—The wife's domicile no longer follows that of her husband if they be separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Except in cases stated, minor cannot acquire a new domicile.

17. Except in the cases above provided for, a person cannot during minority acquire a new domicile.

Lunatic's acquisition of new domicile

18. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to a person's moveable property in British India, in absence of proof of his domicile elsewhere.

19. If a man dies leaving moveable property in British India; in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

PART III.

Of Consanguinity.

Kindred or consanguinity.

20. Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor.

Lineal consanguinity.

21. Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather, and great-grandfather, and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson, and so downwards in the direct descending line. Every generation constitutes a degree, either ascending

ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

Collateral consanguinity.

22. Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon upwards from the person deceased to the common stock, and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

Persons held for purpose of succession to be similarly related to the deceased.

23. For the purpose of succession, there is no distinction between those who are related to a person deceased through his father and those who are related to him through his mother; nor between those who are related to him by the full blood, and those who are related to him by the half blood; nor between those who were actually born in his lifetime, and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Mode of computing degrees of kindred.

24. In the annexed table of kindred the degrees are computed as far as the sixth, and are marked by numeral figures.

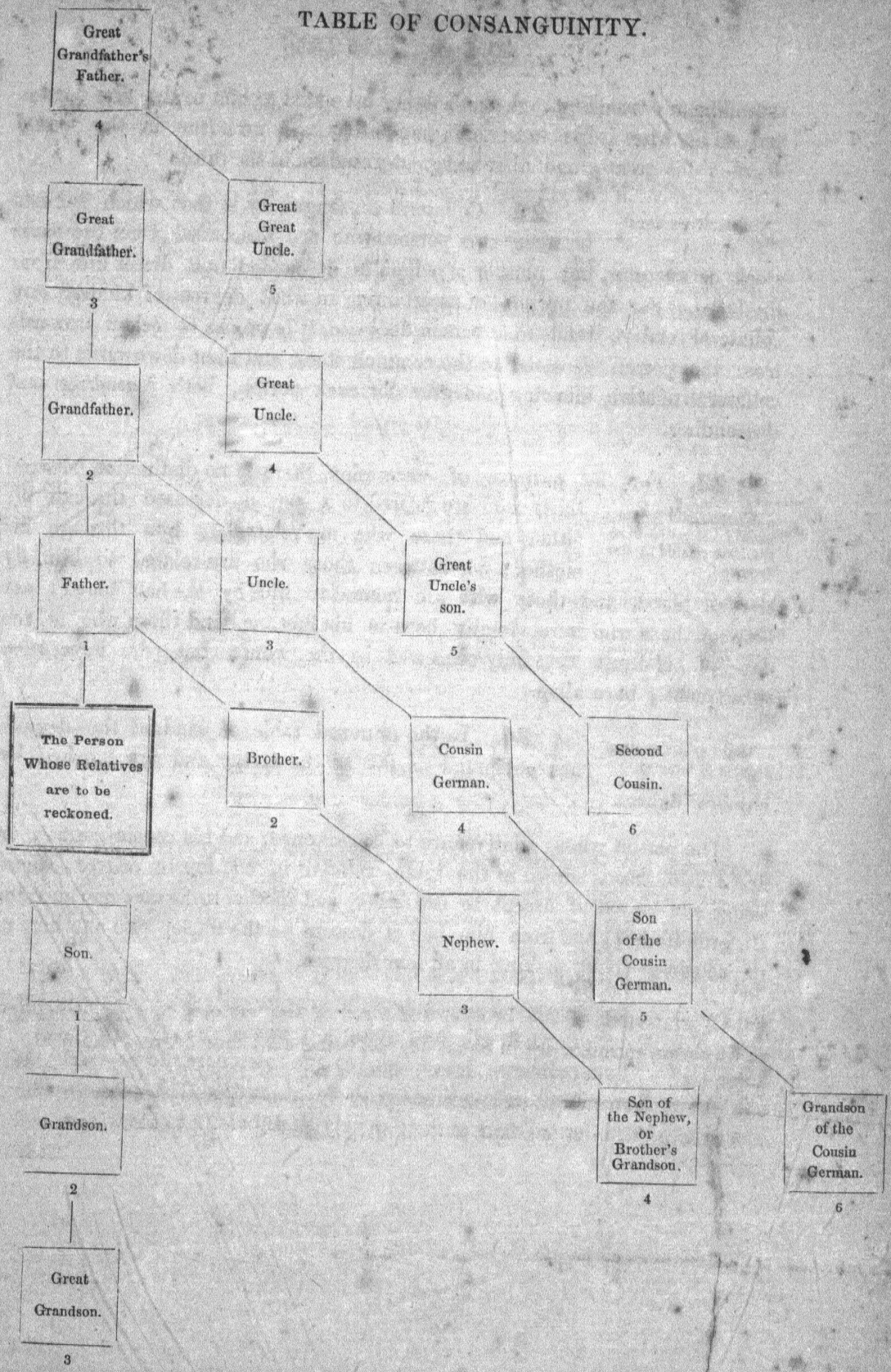
The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor the grandfather; and from him one of descent to the uncle, and another to the cousin-german; making in all four degrees.

A grandson of the brother and a son of the uncle, *i. e.*, a great-nephew and a cousin-german, are in equal degree, being each four degrees removed.

A grandson of a cousin-german is in the same degree as the grandson of a great-uncle, for they are both in the sixth degree of kindred.

TABLE

TABLE OF CONSANGUINITY.



PART IV.

Of Intestacy.

As to what property a deceased person is considered to have died intestate.

25. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations.

(*a.*) A has left no Will. He has died intestate in respect of the whole of his property.

(*b.*) A has left a Will, whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.

(*c*) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(*d*) A has bequeathed 1,000*l* to B, and 1,000*l* to the eldest son of C, and has made no other bequest; and has died leaving the sum of 2,000*l* and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000*l*.

Devolution of such property.

26. Such property devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

Explanation.—The widow is not entitled to the provision hereby made for her, if by a valid contract made before her marriage she has been excluded from her distributive share of her husband's estate.

Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred.

27. Where the intestate has left a widow, if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules herein contained. If he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the

the other half shall go to those who are of kindred to him, in the order and according to the rules herein contained. If he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Where the intestate has left no widow, and where he has left no kindred.

28. Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules herein contained: and if he has left none who are of kindred to him, it shall go to the Crown.

PART V.

Of the Distribution of an Intestate's Property.

(a) Where he has left lineal descendants.

Rules of distribution.

29. The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants are as follows:-

Where the intestate has left a child or children only.

30. Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there be only one, or shall be equally divided among all his surviving children.

Where the intestate has left no child, but a grandchild or grandchildren.

31. Where the intestate has not left surviving him any child, but has left a grandchild or grandchildren, and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild, if there be only one, or shall be equally divided among all his surviving grandchildren.

Illustrations.

Illustrations.

(*a*) A has three children, and no more; John, Mary, and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren shall have one-ninth.

(*b*) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

(*c*) A has two children, and no more; John and Mary. John dies before his father, leaving his wife pregnant. Then A dies, leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and such posthumous child.

Where the intestate has left only great-grandchildren or lineal descendants in a remoter degree.

32. In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

Where the intestate leaves lineal descendants not all in the same degree of kindred to him and those through whom the more remote descend are dead.

33. If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him; and one of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

Illustrations.

Illustrations.

(*a*) A had three children, John, Mary, and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(*b*) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild; and the remaining one-ninth is equally divided between the two great-grandchildren.

(*c*) A has three children, John, Mary, and Henry. John dies leaving four children, and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry; one-third to Mary's child; and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(*b*) *Where the Intestate has left no lineal descendants.*

Rules of distribution where the intestate has left no lineal descendants.

34. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows:—

Where intestate's father is living.

35. If the intestate's father be living, he shall succeed to the property.

Where intestate's father is dead but his mother, brothers and sisters are living.

36. If the intestate's father is dead, but the intestate's mother is living, and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.

Illustration.

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother, but not of his father. The mother takes one-fourth, each brother takes one-fourth, and Mary, the sister of half blood, takes one-fourth.

37. If

Where intestate's father is dead and his mother, a brother or sister, and children of any deceased brother or sister are living.

37. If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister, and the child or children of any brother or sister who may have died in the intestate's lifetime are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A the intestate leaves his mother, his brothers John and Henry, and also one child of a deceased sister Mary, and two children of George, a deceased brother of the half blood, who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each take one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

Where intestate's father is dead and his mother and the children of any deceased brother or sister are living.

38. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A the intestate leaves no brother or sister, but leaves his mother and one child of a deceased sister Mary, and two children of a deceased brother George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

Where intestate's father is dead, but his mother is living and there is no brother nor sister nor nephew.

39. If the intestate's father is dead, but the intestate's mother is living, and there is neither brother nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

40. Where

40. Where the intestate has left neither lineal descendant nor father nor mother, the property is divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant nor father nor mother.

41. If the intestate left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

Where intestate has left neither lineal descendant, nor parent, nor brother nor sister.

Illustrations.

(*a*) A, the intestate, has left a grand-father and a grand-mother, and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(*b*) A, the intestate, has left a great-grandfather or great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(*c*) A, the intestate, left a great-grandfather, an uncle, and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(*d*) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They shall each take one-eleventh of the property.

42. Where a distributive share in the property of a person who has died intestate shall be claimed by a child, or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given, or settled to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share.

Children's advancements not to be brought into hotchpot.

PART VI.

PART VI.

Of the Effect of Marriage and Marriage Settlements on Property.

Rights of widower and widow respectively.

43. The husband surviving his wife has the same rights in respect of her property, if she die intestate, as the widow has in respect of her husband's property, if he die intestate.

No rights to property not comprised in an ante-nuptial settlement, acquired by marriage between a person domiciled and a person not domiciled in British India.

44. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

Settlement of minor's property in contemplation of marriage.

45. The property of a minor may be settled in contemplation of marriage, provided the settlement be made by the minor with the approbation of the minor's father, or if he be dead or absent from British India, with the approbation of the High Court.

PART VII.

Of Wills and Codicils.

Persons capable of making Wills.

46. Every person of sound mind and not a minor may dispose of his property by Will.

Explanation 1.—A married woman may dispose by Will of any property which she could alienate by her own act during her life.

Explanation 2.—Persons who are deaf, or dumb, or blind are not thereby incapacitated for making a Will if they are able to know what they do by it.

Explanation

Explanation 3.—One who is ordinarily insane may make a Will during an interval in which he is of sound mind.

Explanation 4 —No person can make a Will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

Illustrations.

(*a*) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him, or in whose favour it would be proper that he should make his Will. A cannot make a valid Will.

(*b*) A executes an instrument purporting to be his Will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid Will.

(*c*) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes his Will. This is a valid Will.

Testamentary Guardian.

47. A father, whatever his age may be, may by Will appoint a guardian or guardians for his child during minority.

Will obtained by fraud, coercion or importunity.

48. A Will or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Illustrations.

(*a*) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act, and thereby induces the testator to make a Will in his, A's favour: such Will has been obtained by fraud, and is invalid

(*b*) A by fraud and deception prevails upon the testator to bequeath a legacy to him The bequest is void.

(*c*) A, being a prisoner by lawful authority, makes his Will. The Will is not invalid by reason of the imprisonment.

(*d*.) A

(*d*) A threatens to shoot B, or to burn his house, or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B in consequence makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(*e*) A being of sufficient intellect, if undisturbed by the influence of others, to make a Will, yet being so much under the control of B that he is not a free agent, makes a Will dictated by B. It appears that he would not have executed the Will but for fear of B. The Will is invalid.

(*f*) A being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a Will of a certain purport, and does so merely to purchase peace, and in submission to B. The Will is invalid.

(*g*) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a Will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his Will in the manner recommended by B. The Will is not rendered invalid by the intercession and persuasion of B.

(*h*) A with a view to obtaining a legacy from B, pays him attention and flatters him, and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his Will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

Will may be revoked or altered.

49. A Will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

PART VIII.

Of the Execution of unprivileged Wills.

Execution of unprivileged Wills.

50 Every testator, not being a soldier employed in an expedition, or engaged in actual warfare, or a mariner at sea, must execute his Will according to the following rules :—

First.—The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

Second.

Second.—The signature or mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

Third.—The Will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses must sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

Incorporation of papers by reference.

51. If a testator, in a Will or Codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the Will or Codicil in which it is referred to.

PART IX.

Of Privileged Wills.

Privileged Will.

52. Any soldier being employed in an expedition, or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a Will made as is mentioned in the fifty-third Section. Such Wills are called privileged Wills.

Illustrations.

(*a*) A, the surgeon of a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged Will.

(*b*) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and being at sea can make a privileged Will.

(*c*) A

(c) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged Will.

(d) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the words used in this clause, a mariner at sea, and can make a privileged Will.

(e) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged Will.

(f) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged Will.

Mode of making, and rules for executing, privileged Wills.

53. Privileged Wills may be in writing, or may be made by word of mouth. The execution of them shall be governed by the following rules:—

First.—The Will may be written wholly by the testator, with his own hand. In such case it need not be signed nor attested.

Second.—It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

Third.—If the instrument purporting to be a Will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his Will, if it be shown that it was written by the testator's directions, or that he recognized it as his Will. If it appear on the face of the instrument, that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

Fourth.—If the soldier or mariner shall have written instructions for the preparation of his Will, but shall have died before it could be prepared and executed, such instructions shall be considered to constitute his Will.

Fifth.—If

Fifth.—If the soldier or mariner shall in the presence of two witnesses have given verbal instructions for the preparation of his Will, and they shall have been reduced into writing in his lifetime, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his Will, although they may not have been reduced into writing in his presence, nor read over to him.

Sixth.—Such soldier or mariner as aforesaid may make a Will by word of mouth by declaring his intentions before two witnesses present at the same time.

Seventh.—A Will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged Will.

PART X.

Of the Attestation, Revocation, Alteration and Revival of Wills.

Effect of gift to attesting witness.

54. A Will shall not be considered as insufficiently attested by reason of any benefit thereby given, either by way of bequest or by way of appointment, to any person attesting it, or to his or her wife or husband: but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

Explanation.—A legatee under a Will does not lose his legacy by attesting a Codicil which confirms the Will.

Witness not disqualified by interest or by being executor.

55. No person, by reason of interest in or of his being an executor of a Will, is disqualified as a witness to prove the execution of the Will or to prove the validity or invalidity thereof.

56. Every

56. Every Will shall be revoked by the marriage of the maker, except a Will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not in default of such appointment pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Revocation of Will by testator's marriage.

Explanation.—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

Power of appointment defined.

57. No unprivileged Will or Codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another Will or Codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which an unprivileged Will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Revocation of unprivileged Will or Codicil.

Illustrations.

(*a*) A has made an unprivileged Will; afterwards A makes another unprivileged Will which purports to revoke the first. This is a revocation.

(*b*) A has made an unprivileged Will. Afterwards, A being entitled to make a privileged Will, makes a privileged Will, which purports to revoke his unprivileged Will. This is a revocation.

58. No obliteration, interlineation, or other alteration made in any unprivileged Will after the execution thereof shall have any effect, except so far as the words or meaning of the Will shall have been thereby rendered illegible or undiscernible, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; save that the Will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part

Effect of obliteration, interlineation, or alteration in unprivileged Will.

part of the Will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

Revocation of privileged Will or Codicil.

59. A privileged Will or Codicil may be revoked by the testator, by an unprivileged Will or Codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged Will, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Explanation.—In order to the revocation of a privileged Will or Codicil by an act accompanied with such formalities as would be sufficient to give validity to a privileged Will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged Will.

Revival of unprivileged Will.

60. No unprivileged Will or Codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the Will or Codicil.

Extent of revival of Will or Codicil partly revoked and afterwards wholly revoked.

PART XI.

Of the Construction of Wills.

Wording of Will.

61. It is not necessary that any technical words or terms of art shall be used in a Will, but only that the wording shall be such that the intentions of the testator can be known therefrom.

62. For

62. For the purpose of determining questions as to what person or what property is denoted by any words used in a Will, a Court must inquire into every material fact relating to the persons who claim to be interested under such Will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Enquiries to determine questions as to object or subject of Will.

Illustrations.

(*a*) A, by his Will, bequeaths 1,000 rupees to his eldest son, or to his youngest grandchild, or to his cousin Mary. A Court may make inquiry in order to ascertain to what person the description in the Will applies.

(*b*) A, by his Will, leaves to B "his estate called Black Acre." It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(*c*) A, by his Will, leaves to B "the estate which he purchased of C." It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

63. Where the words used in the Will to designate or describe a legatee, or a class of legatees, sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

Misnomer or misdescription of object.

Illustrations.

(*a*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother, named John, who has no son named Thomas, but has a second son whose name is William. William shall have the legacy.

(*b*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother named John, whose first son is named Thomas, and whose second son is named William. Thomas shall have the legacy.

(*c*.) The

(c) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(d) The testator gives his residuary estate to be divided among "his seven children," and proceeding to enumerate them, mentions six names only. This omission shall not prevent the seventh child from taking a share with the others.

(e) The testator having six grandchildren, makes a bequest to "his six grandchildren," and proceeding to mention them by their Christian names, mentions one twice over, omitting another altogether. The one whose name is not mentioned shall take a share with the others.

(f) The testator bequeaths "1,000 rupees to each of the three children of A." At the date of the Will, A has four children. Each of these four children shall, if he survives the testator, receive a legacy of 1,000 rupees.

When words may be supplied.

64. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

Illustration.

The testator gives a legacy of "five hundred" to his daughter A, and a legacy of "five hundred rupees" to his daughter B. A shall take a legacy of five hundred rupees.

Rejection of erroneous particulars in description of subject.

65. If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the Will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

Illustrations.

(a) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, but had no marsh lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh lands of the testator lying in L shall pass by the bequest.

(b) The testator bequeaths to A "his zamíndárí of Rampore." He had an estate at Rampore, but it was a taluk and not a zamíndárí. The taluk passes by this bequest.

66. If

When part of description may not be rejected as erroneous.

66. If the Will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

Explanation.—In judging whether a case falls within the meaning of this Section, any words which would be liable to rejection under the sixty-fifth Section are to be considered as struck out of the Will.

Illustrations.

(*a*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest shall be considered as limited to such of the testator's marsh lands lying in L as were in the occupation of X.

(*b*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X, comprising 1,000 bighás of land." The testator had marsh lands lying in L, some of which were in the occupation of X and some not in the occupation of X. The measurement is wholly inapplicable to the marsh lands of either class, or to the whole taken together. The measurement shall be considered as struck out of the Will, and such of the testator's marsh lands lying in L, as were in the occupation of X, shall alone pass by the bequest.

Extrinsic evidence admissible in case of latent ambiguity.

67. Where the words of the Will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

Illustrations.

(*a*) A man having two cousins of the name of Mary, bequeaths a sum of money to "his cousin Mary." It appears that there are two persons, each answering the description in the Will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(*b*) A,

(*b*) A, by his Will, leaves to B "his estate called Sultánpur Khurd." It turns out that he had two estates called Sultánpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

68. Where there is an ambiguity or deficiency on the face of the Will, no extrinsic evidence as to the intentions of the testator shall be admitted.

Illustrations.

(*a*) A man has an aunt Caroline and a cousin Mary, and has no aunt of the name of Mary. By his Will he bequeaths 2,000 rupees to "his aunt Caroline" and 1,000 rupees to "his cousin Mary," and afterwards bequeaths 2,000 rupees to "his before-mentioned aunt Mary." There is no person to whom the description given in the Will can apply, and evidence is not admissible to show who was meant by "his before-mentioned aunt Mary." The bequest is therefore void for uncertainty under the seventy-sixth Section.

(*b*) A bequeaths 1,000 rupees to , leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(*c*) A bequeaths to B rupees, or "his estate of Evidence is not admissible to show what sum or what estate the testator intended to insert.

Meaning of any clause to be collected from entire Will.

69. The meaning of any clause in a Will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other; and for this purpose a Codicil is to be considered as part of the Will.

Illustrations.

(*a*) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(*b*) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his Will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first, as if he had said, "I give Black Acre to B, and all the rest of my estate to A."

70. General

When words may be understood in a restricted sense, and when in a sense wider than usual.

70. General words may be understood in a restricted sense where it may be collected from the Will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the Will that the testator meant to use them in such wider sense.

Illustrations.

(*a*) A testator gives to A "his farm in the occupation of B," and to C "all his marsh lands in L." Part of the farm in the occupation of B consists of marsh lands in L, and the testator also has other marsh lands in L. The general words, "all his marsh lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh lands in L.

(*b*) The testator (a sailor on ship-board) bequeathed to his mother his gold ring, buttons, and chest of clothes, and to his friend A (a shipmate) his red box, clasp-knife, and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.

(*c*) A, by his Will, bequeathed to B all his household furniture, plate, linen, china, books, pictures, and all other goods of whatever kind; and afterwards bequeathed to B a specified part of his property. Under the first bequest B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

Where a clause is open to two constructions, that which has some effect is to be preferred.

71. Where a clause is susceptible of two meanings, according to one of which it has some effect, and according to the other it can have none, the former is to be preferred.

No part of Will to be rejected, if reasonable construction can be put on it.

72. No part of a Will is to be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

Interpretation of words repeated in different parts of Will.

73. If the same words occur in different parts of the same Will, they must be taken to have been used everywhere in the same sense, unless there appears an intention to the contrary.

74. The

Testator's intention to be effectuated as far as possible.

74. The intention of the testator is not to be set aside because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

Illustration.

The testator by a Will made on his death-bed bequeathed all his property to C D for life, and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under the hundred and fifth Section, but it shall take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

75. Where two clauses or gifts in a Will are irreconcileable, so that they cannot possibly stand together, the last shall prevail.

Illustration

(*a*) The testator by the first clause of his Will leaves his estate of Rámnagar "to A," and by the last clause of his Will leaves it "to B and not to A." B shall have it.

(*b*) If a man at the commencement of his Will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition shall prevail.

Will or bequest void for uncertainty.

76. A Will or bequest not expressive of any definite intention is void for uncertainty.

Illustration.

If a testator says—"I bequeath goods to A;" or "I bequeath to A;" or "I leave to A all the goods mentioned in a Schedule," and no Schedule is found; or "I bequeath 'money,' 'wheat,' oil,' or the like," without saying how much, this is void.

Words describing subject refer to property answering that description at testator's death.

77. The description contained in a Will, of property the subject of gift, shall, unless a contrary intention appear by the Will, be deemed to refer to and comprise the property answering that description at the death of the testator.

78. Unless

Power of appointment executed by general bequest.

78. Unless a contrary intention shall appear by the Will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power.

Implied gift to the objects of a power in default of appointment.

79. Where property is bequeathed to or for the benefit of such of certain objects as a specified person shall appoint, or for the benefit of certain objects in such proportions as a specified person shall appoint; and the Will does not provide for the event of no appointment being made; if the power given by the Will be not exercised, the property belongs to all the objects of the power in equal shares.

Illustration.

A, by his Will, bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund shall be divided equally among the children.

Bequest to "heirs," &c., of a particular person without qualifying terms.

80. Where a bequest is made to the "heirs," or "right heirs," or "relations," or "nearest relations," or "family," or "kindred," or "nearest of kin," or "next of kin," of a particular person, without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Illustrations.

(*a*) A leaves his property "to his own nearest relations." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(*b*) A

(*b*) A bequeaths 10,000 rupees "to B for his life, and after the death of B, to his own right heirs." The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(*c*) A leaves his property to B; but if B dies before him, to B's next of kin: B dies before A; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(*d*) A leaves 10,000 rupees "to B for his life, and after his decease, to the heirs of C." The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

Bequest to "representatives," &c., of a particular person.

81. Where a bequest is made to the "representatives," or "legal representatives," or "personal representatives," or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it.

Illustration.

A bequest is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and shall apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus, B shall pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

Bequest without words of limitation.

82. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the Will that only a restricted interest was intended for him.

Bequest in the alternative.

83. Where property is bequeathed to a person, with a bequest in the alternative to another person or to a class of persons;—if a contrary intention does not appear by the Will, the legatee first named shall be entitled to the legacy, if he be alive at the time when it takes effect; but if he be then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

Illustrations.

Illustrations.

(*a*) A bequest is made to A or to B. A survives the testator. B takes nothing.

(*b*) A bequest is made to A or to B. A dies after the date of the Will, and before the testator. The legacy goes to B.

(*c*) A bequest is made to A or to B. A is dead at the date of the Will. The legacy goes to B.

(*d*) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(*e*) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(*f*) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(*g*) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

Effect of words describing a class added to a bequest to a person.

84. Where property is bequeathed to a person, and words are added which describe a class of persons, but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the Will.

Illustrations.

(*a*) A bequest is made—

to A and his children,
to A and his children by his present wife,
to A and his heirs,
to A and the heirs of his body,
to A and the heirs male of his body,
to A and the heirs female of his body,
to A and his issue,
to A and his family,
to A and his descendants,
to A and his representatives,
to A and his personal representatives,
to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(*b*) A

(*b*) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(*c*) A bequest is made to A for life, and after his death to his issue. At the death of A the property belongs in equal shares to all persons who shall then answer the description of issue of A.

Bequest to a class of persons under a general description only.

85. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Construction of terms.

86. The word "children" in a Will applies only to lineal descendants in the first degree; the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "children," or "grandchildren," are spoken of; the words "nephews" and "nieces" apply only to children of brothers or sisters; the words "cousins" or "first cousins," or "cousins-german" apply only to children of brothers or of sisters of the father or mother of the person whose "cousins," or "first cousins," or "cousins-german," are spoken of; the words "first cousins once removed" apply only to children of cousins-german, or to cousins-german of a parent, of the person whose "first cousins once removed" are spoken of; the words "second cousins" apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of; the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of. Words expressive of collateral relationship apply alike to relatives of full and of half blood. All words expressive of relationship apply to a child in the womb who is afterwards born alive.

Words expressing relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

87. In the absence of any intimation to the contrary in the Will, the term "child," "son," or "daughter," or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or where there is no such legitimate relative, a person who has acquired, at the date of the Will, the reputation of being such relative.

Illustrations.

Illustrations.

(*a*) A, having three children, B, C, and D, of whom B and C are legitimate and D is illegitimate, leaves his property to be equally divided among "his children." The property belongs to B and C in equal shares, to the exclusion of D.

(*b*) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(*c*) A, having in his Will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "his said children." B will take a share in the legacy along with the legitimate children.

(*d*) A leaves a legacy to the "children of B." B is dead, and has left none but illegitimate children. All those who had, at the date of the Will, acquired the reputation of being the children of B are objects of the gift.

(*e*) A bequeathed a legacy to "the children of B." B never had any legitimate child. C and D had at the date of the Will acquired the reputation of being children of B. After the date of the Will, and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(*f*) A makes a bequest in favour of his child by a certain woman, not his wife. B had acquired at the date of the Will the reputation of being the child of A by the woman designated. B takes the legacy.

(*g*) A makes a bequest in favour of his child to be born of a woman, who never becomes his wife. The bequest is void.

(*h*) A makes a bequest in favour of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

Rules of construction where a Will purports to make two bequests to the same person.

88. Where a Will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first; if there is nothing in the Will to show what he intended,

tended, the following rules shall prevail in determining the construction to be put upon the Will:—

First.—If the same specific thing is bequeathed twice to the same legatee in the same Will, or in the Will and again in a Codicil, he is entitled to receive that specific thing only.

Second.—Where one and the same Will or one and the same Codicil purports to make in two places a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.

Third.—Where two legacies of unequal amount are given to the same person in the same Will, or in the same Codicil, the legatee is entitled to both.

Fourth.—Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a Will and the other by a Codicil, or each by a different Codicil, the legatee is entitled to both legacies.

Explanation.—In the four last rules, the word Will does not include a Codicil.

Illustrations.

(*a*) A having ten shares, and no more, in the Bank of Bengal, made his Will, which contains near its commencement the words "I bequeath my ten shares in the Bank of Bengal to B." After other bequests, the Will concludes with the words "and I bequeath my ten shares in the Bank of Bengal to B." B is entitled simply to receive A's ten shares in the Bank of Bengal.

(*b*) A having one diamond ring, which was given him by B, bequeathed to C the diamond ring which was given him by B. A afterwards made a Codicil to his Will, and thereby, after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(*c*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, in the same Will, repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(*d*) A,

(*d*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, by the same Will, bequeaths to B the sum of 6,000 rupees. B is entitled to 11,000 rupees.

(*e*) A, by his Will, bequeaths to B 5,000 rupees, and by a Codicil to the Will he bequeaths to him 5,000 rupees. B is entitled to receive 10,000 rupees.

(*f*) A, by one Codicil to his Will, bequeaths to B 5,000 rupees, and by another Codicil, bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(*g*) A, by his Will, bequeaths "500 rupees to B because she was his nurse," and in another part of the Will bequeaths 500 rupees to B "because she went to England with his children." B is entitled to receive 1,000 rupees.

(*h*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and also, in another part of the Will, an annuity of 400 rupees. B is entitled to both legacies.

(*i*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

Constitution of residuary legatee.

89. A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

Illustrations.

(*a*) A makes her Will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, &c., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to." B is constituted residuary legatee.

(*b*) A makes his Will, with the following passage at the end of it:—"I believe there will be found sufficient in my banker's hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue for her own use and pleasure." B is constituted the residuary legatee.

(*c*) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

90. Under

90. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

Property to which a residuary legatee is entitled.

Illustration.

A by his Will bequeaths certain legacies, one of which is void under the hundred and fifth Section and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his Will, A purchases a zamíndárí, which belongs to him at the time of his death. B is entitled to the two legacies and the zamíndárí as part of the residue.

91. If a legacy be given in general terms, without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and if he dies without having received it, it shall pass to his representatives.

Time of vesting of legacy in general terms.

92. If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appear by the Will that the testator intended that it should go to some other person. In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

In what case a legacy lapses.

Illustrations.

(*a*) The testator bequeaths to B 500 rupees which B owes him." B dies before the testator; the legacy lapses.

(*b*) A bequest is made to A and his children. A dies before the testator or happens to be dead when the Will is made. The legacy to A and his children lapses.

(*c*) A legacy is given to A, and in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(*d*) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect.

(*e*) A

(e) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the lifetime of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(f) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy will lapse.

A legacy does not lapse if one of two joint legatees die before the testator.

93. If a legacy be given to two persons jointly, and one of them die before the testator, the other legatee takes the whole.

Illustration.

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

Effect in such a case, of words showing testator's intention that the shares should be distinct.

94. But where a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then if any legatee die before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Illustration.

A sum of money is bequeathed to A, B, and C, to be equally divided among them. A dies before the testator. B and C shall only take so much as they would have had if A had survived the testator.

When lapsed share goes as undisposed of.

95. Where the share that lapses is a part of the general residue bequeathed by the Will, that share shall go as undisposed of.

Illustration.

The testator bequeaths the residue of his estate to A, B, and C, to be equally divided between them. dies before the testator. His one-third of the residue goes as undisposed of.

96. Where

When a bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

96. Where a bequest shall have been made to any child or other lineal descendant of the testator, and the legatee shall die in the lifetime of the testator, but any lineal descendant of his shall survive the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

Illustration.

A makes his Will, by which he bequeaths a sum of money to his son B for his own absolute use and benefit. B dies before A, leaving a son C who survives A, and having made his Will whereby he bequeaths all his property to his widow D. The money goes to D.

Bequest to A for the benefit of B does not lapse by A's death in testator's lifetime.

97. Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

Survivorship in case of bequest to a described class.

98. Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as shall be alive at the testator's death.

Exception.—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise, the property shall at that time go to such of them as shall be then alive, and to the representatives of any of them who have died since the death of the testator.

Illustrations.

(*a*) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the Will, leaving three children, C, D, and E. E died after the date of the Will, but before the death of A. C and D survive A. The legacy shall belong to C and D, to the exclusion of the representatives of E.

(*b*) A

(*b*) A bequeaths a legacy to the children of B. At the time of the testator's death, B has no children. The bequest is void.

(*c*) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D; and he never had any other child. Afterwards, during the lifetime of A, C died, leaving E his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(*d*) A sum of money was bequeathed to A for her life, and after her decease to the children of B. At the death of the testator, B had two children living, C and D, and after that event, two children, E and F, were born to B. C and E died in the lifetime of A, C having made a Will, E having made no Will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E, and one to F.

(*e*) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B; D and E have survived B. One-third of A's lands belongs to D, E, and the representatives of C, in equal shares.

(*f*) A bequeaths 1,000 rupees to B for life, and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(*g*) A bequeaths 1,000 rupees to "all the children born or to be born" of B, to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator, but in the lifetime of C, two other children, F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F, and G, to the exclusion of the after-born child of B.

(*h*) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living, named C. He afterwards had two other children, named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

PART XII.

Of void Bequests.

Bequest to a person by a particular description, who is not in existence at the testator's death.

99. Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Exception.—If

Exception.—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest, or otherwise ; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or if he be dead, to his representatives.

Illustrations.

(*a*) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator B has no son. The bequest is void.

(*b*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death, the legacy goes to C's son.

(*c*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son ; afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(*d*) A bequeaths his estate of Greenacre to B for life, and at his decease to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(*e*) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator, C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

Bequest to a person not in existence at the testator's death, subject to a prior bequest.

100. Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the Will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Illustrations.

(*a*) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

(*b*) A

(*b*) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters, some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(*c*) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of eighteen, her portion shall be settled so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect, in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(*d*) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons not yet born, of a life-interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

Rule against perpetuity.

101. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

Illustrations.

(*a*) A fund is bequeathed to A for his life; and after his death to B for his life; and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25, may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the lifetime of A and B, and the minority of the sons of B. The bequest after B's death is void.

(*b*) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(*c*) A

(c) A fund is bequeathed to A for his life, and after his death to B for his life; with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(d) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

Bequest to a class, some of whom may come under the rules in Sections 100 and 101.

102. If a bequest is made to a class of persons, with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding Sections, or either of them, such bequest shall be wholly void.

Illustrations.

(a) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(b) A fund is bequeathed to A for his life, and after his death to B, C, D, and all other the children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in Illustration (a). The mention of B, C and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

Bequest to take effect on failure of bequest void under Section 100, 101 or 102.

103. Where a bequest is void by reason of any of the rules contained in the three last preceding Sections, any bequest contained in the same Will, and intended to take effect after or upon failure of such prior bequest, is also void.

Illustrations.

Illustrations.

(*a*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son, to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(*b*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

Effect of direction for accumulation.

104. A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

Illustrations.

(*a*) The Will directs that the sum of 10,000 rupees shall be invested in Government securities, and the income accumulated for 20 years, and that the principal together with the accumulations, shall then be divided between A, B and C. A, B and C are entitled to receive the sum of 10,000 rupees at the end of the year from the testator's death.

(*b*) The Will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(*c*) The Will directs that the rents of the farm of Sultánpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(*d*) The

(*d*) The Will directs that the rents of the farm of Sultánpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(*e*) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the Will, but in consequence of B's minority.

Bequest to religious or charitable uses.

105. No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a Will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the Wills of living persons.

Illustration.

A having a nephew makes a bequest by a Will not executed nor deposited as required—

For the relief of poor people;
For the maintenance of sick soldiers;
For the erection or support of a hospital;
For the education and preferment of orphans;
For the support of scholars;
For the erection or support of a school;
For the building and repairs of a bridge;
For the making of roads;
For the erection or support of a church;
For the repairs of a church;
For the benefit of ministers of religion;
For the formation or support of a public garden.

All these bequests are void.

PART XIII.

Of the Vesting of Legacies.

Date of vesting of legacy when payment or possession postponed.

106. Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the Will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if

if he dies before that time and without having received the legacy And in such cases the legacy is from the testator's death said to be vested in interest.

Explanation.—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that if a particular event shall happen, the legacy shall go over to another person.

Illustrations.

(*a*) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(*b*) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(*c*) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(*d*) A fund is bequeathed to A until B attains the age of 18, and then to B. The legacy to B is vested in interest from the testator's death.

(*e*) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(*f*) A fund is bequeathed to A, B, and C in equal shares, to be paid to them on their attaining the age of 18 respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vest in interest in A, B and C, subject to be devested in case A, B and C shall all die under 18, and upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Date of vesting when legacy is contingent upon a specified uncertain event.

107. A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens. A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event

event becomes impossible. In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

Exception.—Where a fund is bequeathed to any person upon his attaining a particular age, and the Will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit; the bequest of the fund is not contingent.

Illustrations.

(*a*) A legacy is bequeathed to D in case A, B and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B and C all die under 18, or one of them attains that age.

(*b*) A sum of money is bequeathed to A "in case he shall attain the age of 18," or, "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition shall be fulfilled by his attaining that age.

(*c*) An estate is bequeathed to A for life, and after his death to B, if B shall then be living, but if B shall not be then living, to C. A, B and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other shall have happened.

(*d*) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(*e*) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that if she shall not attain 18, or marry under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy, although she may have married under 18 without the consent of B.

(*f*) An estate is bequeathed to A until he shall marry, and after that event to B. B's interest in the bequest is contingent until the condition shall be fulfilled by A's marrying.

(*g*) An estate is bequeathed to A until he shall take advantage of the Act for the Relief of Insolvent Debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of the Act.

(*h*) An

(*h*) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest n the bequest is contingent until he has paid 500 rupees to B.

(*i*) A leaves his farm of Sultánpur Khurd to B, if B shall convey his own farm of Sultánpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(*j*) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent, until the condition shall be fulfilled by the expiration of the five years without B's having married C, or by the occurrence, within that period, of an event which makes the fulfilment of the condition impossible.

(*k*) A fund is bequeathed to A if B shall not make any provision for him by Will. The legacy is contingent until B's death.

(*l*) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(*m*) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

108. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

Illustration.

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18 has a vested interest in the bequest.

PART XIV.

Of Onerous Bequests.

Onerous bequest.

109. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

Illustration.

Illustration.

A having shares in (X) a prosperous joint stock company, and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y). He forfeits the shares in (X).

One of two separate and independent bequests to same person may be accepted, and the other refused.

110. Where a Will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

Illustration.

A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He shall not by this refusal forfeit the money.

PART XV.

Of Contingent Bequests.

Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

111. Where a legacy is given if a specified uncertain event shall happen, and no time is mentioned in the Will for the occurrence of that event, the legacy cannot take effect unless such event happens before the period when the fund bequeathed is payable or distributable.

Illustrations.

(*a*) A legacy is bequeathed to A, and in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(*b*) A legacy is bequeathed to A, and in case of his death without children, to B. If A survives the testator or dies in his lifetime leaving a child, the legacy to B does not take effect.

(*c*) A legacy is bequeathed to A when and if he attains the age of 18, and in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(*d*) A

(*d*) A legacy is bequeathed to A for life, and after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children," are to be understood as meaning in case B shall die without children during the lifetime of A.

(*e*) A legacy is bequeathed to A for life, and after his death to B, and "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B shall die in the lifetime of A."

Bequest to such of certain persons as shall be surviving at some period not specified.

112. Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as shall be alive at the time of payment or distribution, unless a contrary intention appear by the Will.

Illustrations.

(*a*) Property is bequeathed to A and B, to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(*b*) Property is bequeathed to A for life, and after his death to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(*c*) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(*d*) Property is bequeathed to A for life, and after his death to B and C, with a direction that in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

PART XVI.

Of Conditional Bequests.

Bequest upon impossible condition.

113. A bequest upon an impossible condition is void.

Illustrations.

Illustrations.

(*a*) An estate is bequeathed to A on condition that he shall walk one hundred miles in an hour. The bequest is void.

(*b*) A bequeaths 500 rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the Will. The bequest is void.

Bequest upon illegal or immoral condition.

114. A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

Illustrations.

(*a*) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(*b*) A bequeaths 5,000 rupees to his niece if she will desert her husband. The bequest is void.

Fulfilment of condition precedent to the vesting of a legacy.

115. Where a Will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

Illustrations.

(*a*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D and E. A marries with the written consent of B. C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(*b*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(*c*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries in the lifetime of B, C and D, with the consent of B and C only. A has not fulfilled the condition.

(*d*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A obtains the unconditional assent of B, C and D to his marriage with E. Afterwards B, C and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(*e*) A

(*e*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries without the consent of B, C and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(*f*) A makes his Will, whereby he bequeaths a sum of money to B if B shall marry with the consent of A's executors. B marries during the lifetime of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(*g*) A legacy is bequeathed to A if he executes a certain document within a time specified in the Will. The document is executed by A within a reasonable time, but not within the time specified in the Will. A has not performed the condition, and is not entitled to receive the legacy.

Bequest to A and, on failure of the prior bequest, to B.

116. Where there is a bequest to one person and a bequest of the same thing to another if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest, although the failure may not have occurred in the manner contemplated by the testator.

Illustrations.

(*a*) A bequeaths a sum of money to his own children surviving him, and if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(*b*) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's lifetime. The bequest to C takes effect.

Case in which the second bequest shall not take effect on failure of the first.

117. Where the Will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect unless the prior bequest fails in that particular manner.

Illustration.

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The bequest to B does not take effect.

118. A bequest may be made to any person with the condition superadded that in case a specified uncertain event shall happen, the thing bequeathed shall go to another person; or, that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person. In each case the ulterior bequest is subject to the rules contained in Sections 107, 108, 109, 110, 111, 112, 113, 114, 116, 117.

Bequest over, conditional upon the happening or not happening of a specified uncertain event.

Illustrations.

(*a*) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be devested and to go to B in case A shall die under 18.

(*b*) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a Will, the estate shall go to B. A disputes the competency of the testator to make a Will. The estate goes to B.

(*c*) A sum of money is bequeathed to A for life, and after his death to B, but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be devested if he dies leaving a son in A's lifetime.

(*d*) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(*e*) A bequeaths to B the interest of a fund for life, and directs the fund to be divided, at her death, equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

119. An ulterior bequest of the kind contemplated by the last preceding Section cannot take effect, unless the condition is strictly fulfilled.

Condition must be strictly fulfilled.

Illustrations.

(*a*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(*b*) A

(*b*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(*c*) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that if A dies under 18, or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second.

120. If the ulterior bequest be not valid, the original bequest is not affected by it.

Illustrations.

(*a*) An estate is bequeathed to A for his life, with a condition superadded that if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the Will.

(*b*) An estate is bequeathed to A for her life, and if she do not desert her husband, to B. A is entitled to the estate during her life as if no condition had been inserted in the Will.

(*c*) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under Section 92, and A is entitled to the estate during his life.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

121. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Illustrations.

(*a*) An estate is bequeathed to A for his life, with a proviso that in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood; he loses his life-interest in the estate.

(*b*) An estate is bequeathed to A, provided that if he marries under the age of 25 without the consent of the executors named in the Will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(*c*) An

(c) An estate is bequeathed to A, provided that if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(d) An estate is bequeathed to A, with a proviso that if she becomes a Nun she shall cease to have any interest in the estate. A becomes a Nun. She loses her interest under the Will.

(e) A fund is bequeathed to A for life, and after his death to B, if B shall be then living, with a proviso that if B shall become a Nun, the bequest to her shall cease to have any effect. B becomes a Nun in the lifetime of A. She thereby loses her contingent interest in the fund.

Such condition must not be invalid under section 107.

122 In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by the one huudred and seventh Section.

Result of legatee rendering impossible or indefinitely postponing an act for which no time is specified and on the nonperformance of which the subject-matter is to go over.

123. Where a bequest is made with a condition superadded that unless the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect; but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

Illustrations.

(a) A bequest is made to A with a proviso that unless he enters the army the legacy shall go over to B. A takes holy orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(b) A bequest is made to A with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger, and thereby indefinitely postpones the fulfilment of the condition The bequest ceases to have effect.

124. Where

124. Where the Will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect; the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

Performance of condition, precedent or subsequent, within specified time.

Further time allowed in case of fraud.

PART XVII.

Of Bequests with Directions as to Application or Enjoyment.

125. Where a fund is bequeathed absolutely to or for the benefit of any person, but the Will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the Will had contained no such direction.

Direction that funds be employed in a particular manner following an absolute bequest of the same to or for the benefit of any person.

Illustration.

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to purchase a commission in the Army for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

126. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the Will had contained no such direction.

Direction that a mode of enjoyment of absolute bequest is to be restricted, to secure a specified benefit for the legatee.

Illustrations.

(*a*) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life, and be paid to their children after their death. All the daughters die unmarried, the representatives of each daughter are entitled to her share of the residue.

(*b*) A

(*b*) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund, and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

Bequest of a fund for certain purposes, some of which cannot be fulfilled.

127. Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the Will, remains a part of the estate of the testator.

Illustrations.

(*a*) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children; the son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(*b*) A bequeaths the residue of his estate to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

PART XVIII.

Of Bequests to an Executor.

Legatee named as executor cannot take unless he shews intention to act as executor.

128. If a legacy is bequeathed to a person who is named an executor of the Will, he shall not take the legacy unless he proves the Will or otherwise manifests an intention to act as executor.

Illustration.

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the Will, and dies a few days after the testator, without having proved the Will. A has manifested an intention to act as executor.

PART XIX.

ACT No. X OF 1865.

PART XIX.

Of Specific Legacies.

Specific legacy defined.

129. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

Illustrations.

(*a*) A bequeaths to B—

"The diamond ring presented to him by C."

"His gold chain."

"A certain bale of wool."

"A certain piece of cloth."

"All his household goods, which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."

"The sum of 1,000 rupees in a certain chest."

"The debt which B owes him."

"All his bills, bonds, and securities belonging to him, lying in his lodgings in Calcutta."

"All his furniture in his house in Calcutta."

"All his goods on board a certain ship then lying in the River Hooghly."

"2,000 rupees which he has in the hands of C."

"The money due to him on the bond of D."

"His mortgage on the Rampore Factory."

"One-half of the money owing to him on his mortgage of Rampore Factory."

"1,000 rupees, being part of a debt due to him from C."

"His capital Stock of 1,000*l.* in East India Stock."

"His promissory notes of the Government of India, for 10,000 rupees in their 4 per cent. loan."

"All such sums of money as his executors may, after his death, receive in respect of the debt due to him from the insolvent firm of D and Company."

"All the wine which he may have in his cellar at the time of his death."

"Such of his horses as B may select."

"All his shares in the Bank of Bengal."

"All the shares in the Bank of Bengal which he may possess at the time of his death."

"All the money which he has in the 5½ per cent. loan of the Government of India."

"All the Government securities he shall be entitled to at the time of his decease."

Each of these legacies is specific.

(*b*) A having Government promissory notes for 10,000 rupees, bequeaths to his executors "Government promissory notes for 10,000 rupees in trust to sell" for the benefit of B.

The legacy is specific.

(*c*) A

(*c*) A having property at Benares, and also in other places, bequeaths to B all his property at Benares.

The legacy is specific.

(*d*) A bequeaths to B—

His house in Calcutta.

His zamíndárí of Rampore.

His taluk of Rámnagar.

His lease of the Indigo factory of Sulkea.

An annuity of 500 rupees out of the rents of his zamíndárí of W.

A directs his zamíndárí of X to be sold, and the proceeds to be invested for the benefit of B.

Each of these bequests is specific.

(*e*) A by his Will charges his zamíndárí of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge he bequeaths the zamíndárí to D. Each of these bequests is specific.

(*f*) A bequeaths a sum of money to buy a house in Calcutta for B.

To buy an estate in Zillah Furreedpore for B.

To buy a diamond ring for B.

To buy a horse for B.

To be invested in shares in the Bank of Bengal for B.

To be invested in Government securities for B.

A bequeaths to B—

"A diamond ring."

"A horse."

"10,000 rupees worth of Government securities."

"An annuity of 500 rupees."

"2,000 rupees, to be paid in cash."

"So much money as will produce 5,000 rupees 4 per cent. Government securities."

These bequests are not specific.

(*g*) A having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of the property which he may leave in England.

No one of these legacies is specific.

Bequest of a sum certain where the stocks, &c. in which it is invested are described.

130. Where a sum certain is bequeathed, the legacy is not specific merely because the stocks, funds, or securities in which it is invested are described in the Will.

Illustration.

Illustration.

A bequeaths to B—

"10,000 rupees of his funded property."

"10,000 rupees of his property now invested in Shares of the East Indian Railway Company."

"10,000 rupees, at present secured by mortgage of Rampore Factory."

No one of these legacies is specific.

Bequest of stock where the testator had at the date of his Will an equal or greater amount of stock of the same kind.

131. Where a bequest is made in general terms, of a certain amount of any kind of stock, the legacy is not specific merely because the testator was at the date of his Will possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

Illustration.

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the Will five per cent. Government securities for 5,000 rupees.

The legacy is not specific.

Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

132. A money legacy is not specific merely because the Will directs its payment to be postponed until some part of the property of the testator shall have been reduced to a certain form, or remitted to a certain place.

Illustration.

A bequeaths to B 10,000 rupees, and directs that this legacy shall be paid as soon as A's property in India shall be realized in England.

The legacy is not specific.

When enumerated articles are not to be deemed to be specifically bequeathed.

133. Where a Will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

134. Where

134. Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

Retention, in form, of specific bequest to several persons in succession.

Illustrations.

(*a*) A having a lease of a house for a term of years, 15 of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although if B lives for 15 years, C can take nothing under the bequest.

(*b*) A having an annuity during the life of B, bequeaths it to C for his life, and after C's death, to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

135. Where property comprised in a bequest to two or more persons in succession, is not specifically bequeathed, it shall in the absence of any direction to the contrary be sold, and the proceeds of the sale shall be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the Will.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

Illustration.

A, having a lease for a term of years, bequeaths "all his property" to B for life, and after B's death, to C. The lease must be sold, and the proceeds invested as stated in the text, and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

136. If there be a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

Where there is a deficiency of assets to pay legacies, specific legacy not liable to abate with general legacies.

PART XX.

PART XX.

Of Demonstrative Legacies.

Demonstrative legacy defined.

137. Where a testator bequeaths a certain sum of money or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Explanation—The distinction between a specific legacy and a demonstrative legacy consists in this, that where specified property is given to the legatee, the legacy is specific; where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(*a*) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific; the legacy to C is demonstrative.

(*b*) A bequeaths to B "ten bushels of the corn which shall grow in his field of Greenacre."

"80 chests of the Indigo which shall be made at his factory of Rampore."

"10,000 rupees out of his five per cent. promissory notes of the Government of India."

An annuity of 500 rupees "from his funded property."

"1,000 rupees out of the sum of 2,000 rupees due to him by C."

A bequeaths to B an annuity, and directs it to be paid out of the rents arising from his taluk of Rámnagar.

A bequeaths to B "10,000 rupees out of his estate at Rámnagar," or charges it on his estate at Rámnagar.

"10,000 rupees, being his share of the capital embarked in a certain business."

Each of these bequests is demonstrative.

138. Where

138. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund, and so far as the residue shall be deficient, out of the general assets of the testator.

Order of payment when legacy is directed to be paid out of a fund the subject of a specific legacy.

Illustration.

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

PART XXI.

Of Ademption of Legacies.

139. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect by reason of the subject-matter having been withdrawn from the operation of the Will.

Ademption explained.

Illustrations.

(*a*) A bequeaths to B—

"The diamond ring presented to him by C."

"His gold chain."

"A certain bale of wool."

"A certain piece of cloth."

"All his household goods which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."

A, in his lifetime,

Sells or gives away the ring.

Converts the chain into a cup.

Converts the wool into cloth.

Makes the cloth into a garment.

Takes another house into which he removes all his goods.

Each of these legacies is adeemed.

(*b*) A

(*b*) A bequeaths to B—

"The sum of 1,000 rupees in a certain chest."

"All the horses in his stable."

At the death of A, no money is found in the chest, and no horses in the stable.

The legacies are adeemed.

(*c*) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned.

The legacy is adeemed.

Non-ademption of demonstrative legacy.

140. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the Will does not exist at the time of the death of the testator, or has been converted into property of a different kind ; but it shall in such case be paid out of the general assets of the testator.

Ademption of specific bequest of right to receive something from a third party.

141. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

Illustrations.

(*a*) A bequeaths to B—

"The debt which C owes him."

"2,000 rupees which he has in the hands of D."

"The money due to him on the bond of E."

"His mortgage on the Rampore Factory."

All these debts are extinguished in A's lifetime, some with and some without his consent.

All the legacies are adeemed.

(*b*) A bequeaths to B—

"His interest in certain policies of life assurance."

A in his lifetime receives the amount of the policies. The legacy is adeemed.

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

142. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Illustration.

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Illustration.

A bequeaths to B "the debt due to him by C." The debt amounts to 10,000 rupees. C pays to A 5,000 rupees, the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

Ademption *pro tanto* by testator's receipt of portion of an entire fund of which a portion has been specifically bequeathed.

143. If a portion of an entire fund or stock be specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Illustration.

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

144. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee; if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Illustration

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives 500 rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

145. Where

Ademption where stock, specifically bequeathed, does not exist at testator's death.

145. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Illustration.

A bequeaths to B—

"His capital stock of 1,000*l.* in East India Stock."

"His promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan."

A sells the stock and the notes.

The legacies are adeemed.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

146. Where stock which has been specifically bequeathed, does only in part exist at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Illustration.

A bequeaths to B—

"His 10,000 rupees in the 5½ per cent. loan of the Government of India.'

A sells one-half of his 10,000 rupees in the loan in question.

One-half of the legacy is adeemed.

Non-ademption of specific bequest of goods described as connected with a certain place by reason of removal.

147. A specific bequest of goods under a description connecting them with a certain place, is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

Illustrations.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." The goods are removed from the house to save them from fire. A dies before they are brought back.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

148. The

When removal of thing bequeathed does not constitute ademption.

148. The removal of the thing bequeathed from the place in which it is stated in the Will to be situated, does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

Illustrations.

A bequeaths to B all the bills, bonds, and other securities for money belonging to him then lying in his lodgings in Calcutta. At the time of his death, these effects had been removed from his lodgings in Calcutta.

A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only, which he removes with himself to each house. At the time of his death, the furniture is in the house at Chinsurah.

A bequeaths to B all his goods on board a certain ship then lying in the River Hooghly. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

When the thing bequeathed is a valuable to be received by the testator from a third person; and the testator himself, or his representative, receives it.

149. Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which shall be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

Illustration.

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property. The legacy is not adeemed.

150. Where

Change by operation of law of subject of specific bequest between date of Will and testator's death.

150. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

Illustrations.

A bequeaths to B "all the money which he has in the 5½ per cent. loan of the Government of India."

The securities for the 5½ per cent. loan are converted during A's lifetime into 5 per cent. stock.

A bequeaths to B the sum of 2,000*l.*, invested in Consols in the names of trustees for A.

The sum of 2,000*l.* is transferred by the trustees into A's own name.

A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power, under his marriage settlement, to dispose of by will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

Change of subject without testator's knowledge.

151. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

Illustration.

A bequeaths to B "all his 3 per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed, lent to a third party on condition that it shall be replaced

152. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

153. Where

Stock specifically bequeathed, sold but replaced and belonging to the testator at his death.

153. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

PART XXII.

Of the Payment of Liabilities in respect of the Subject of a Bequest.

Non-liability of executor to exonerate specific legatees.

154. Where property specifically bequeathed is subject at the death of the testator to any pledge, lien, or incumbrance, created by the testator himself or by any person under whom he claims; then, unless a contrary intention appears by the Will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance. A contrary intention shall not be inferred from any direction which the Will may contain for the payment of the testator's debts generally.

Explanation.—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this Section.

Illustrations.

(*a*) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(*b*) A bequeaths to B a zamíndárí, which at A's death is subject to a mortgage for 10,000 rupees and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

Completion of testator's title to things bequeathed to be at cost of his estate.

155. Where any thing is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Illustrations.

Illustrations.

(*a*) A having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths it to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(*b*) A having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down, and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One-half of the purchase-money must be paid out of A's assets.

Exoneration of legatee's immoveable property for which land-revenue or rent is payable periodically.

156. Where there is a bequest of any interest in immoveable property, in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them up to the day of his death.

Illustration.

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate shall make good 25 rupees in respect of the rent.

Exoneration of specific legatee's stock in a Joint Stock Company.

157. In the absence of any direction in the Will, where there is a specific bequest of stock in a Joint Stock Company, if any call or other payment is due from the testator at the time of his death in respect of such stock, such call or payment shall, as between the testator's estate and the legatee, be borne by such estate; but if any call or other payment shall, after the testator's death, become due in respect of such stock, the same shall, as between the testator's estate and the legatee, be borne by the legatee if he accept the bequest.

Illustrations.

(*a*) A bequeathed to B his shares in a certain railway. At A's death there was due from him the sum of 5*l.* in respect of each share, being the amount of a call which had been duly made, and the sum of 5*s.* in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(*b*) A

(*b*) A has agreed to take 50 shares in an intended Joint Stock Company, and has contracted to pay up 5*l.* in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(*c*) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(*d*) A bequeaths to B his shares in a Joint Stock Company. B accepts the bequest. Afterwards the affairs of the Company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(*e*) A is the owner of ten shares in a Railway Company. At a meeting held during his lifetime a call is made of 3*l.* per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

PART XXIII.

Of Bequests of Things described in general Terms.

Bequest of thing described in general terms.

158. If there be a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

Illustrations.

(*a*) A bequeaths to B *a* pair of carriage horses, or *a* diamond ring. The executor must provide the legatee with such articles, if the state of the assets will allow it.

(*b*) A bequeaths to B "*his* pair of carriage horses." A had no carriage horses at the time of his death. The legacy fails.

PART XXIV.

Of Bequests of the Interest or Produce of a Fund.

Bequest of the interest or produce of a fund.

159. Where the interest or produce of a fund is bequeathed to any person, and the Will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

Illustrations.

Illustrations.

(*a*) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the Will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(*b*) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(*c*) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

PART XXV.

Of Bequests of Annuities.

Annuity created by Will is payable for life only, unless a contrary intention appears by the Will.

160. Where an annuity is created by Will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the Will. And this rule shall not be varied by the circumstance that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

Illustrations.

(*a*) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees.

(*b*) A bequeaths to B the sum of 500 rupees monthly. B is entitled during his life to receive the sum of 500 rupees every month.

(*c*) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life. C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death.

161. Where

161. Where the Will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him, or to receive the money appropriated for that purpose by the Will.

Period of vesting where Will directs that an annuity be provided out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity.

Illustrations.

(*a*) A by his Will directs that his executors shall out of his property purchase an annuity of 1,000 rupees for B. B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(*b*) A bequeaths a fund to B for his life, and directs that after B's death it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's lifetime. On B's death the fund belongs to the representative of C.

162. Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the Will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the Will.

Abatement of annuity.

163. Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

Where there is a gift of an annuity, and a residuary gift, the whole of the annuity to be first satisfied.

PART XXVI.

Of Legacies to Creditors and Portioners.

164. Where a debtor bequeaths a legacy to his creditor, and it does not appear from the Will that the leg cy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

Creditor *primâ facie* entitled to legacy as well as debt.

165. Where

165. Where a parent who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his Will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion

Child *primâ facie* entitled to legacy as well as portion.

Illustration.

A, by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions

166. No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

No ademption by subsequent provision for legatee

Illustrations.

(*a*) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(*b*) A bequeaths 40,000 rupees to B, his orphan niece, whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

PART XXVII.

Of Election.

167. Where a man, by his Will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and in the latter case he shall give up any benefits which may have been provided for him by the Will.

Circumstances in which election takes place.

168. The

168. The interest so relinquished shall devolve as if it had not been disposed of by the Will in favour of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the Will.

Devolution of interest relinquished by the owner.

169. This rule will apply whether the testator does or does not believe that which he professes to dispose of by his Will to be his own.

Testator's belief as to his ownership immaterial.

Illustrations.

(*a*) The farm of Sultánpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultánpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees, of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(*b*) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel, or to lose the estate.

(*c*) A bequeaths to B 1,000 rupees, and to C an estate which will under a settlement belong to B if his elder brother (who is married, and has children) shall leave no issue living at his death. B must elect to give up the estate, or to lose the legacy.

(*d*) A, a person of the age of 18 domiciled in British India, but owning real property in England, to which C is heir-at-law, bequeaths a legacy to C, and subject thereto devises and bequeaths to B "all his property, whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the Will. C may claim his legacy without giving up the real property in England.

170. A bequest for a man's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Bequest for a man's benefit how regarded for the purpose of election.

Illustration.

The farm of Sultánpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultánpur Buzurg to his own executors, with a direction that it should be sold, and the proceeds applied in payment of B's debts. B must elect whether he will abide by the Will, or keep his farm of Sultánpur Khurd in opposition to it.

A person deriving a benefit indirectly not put to his election.

171. A person taking no benefit directly under the Will, but deriving a benefit under it indirectly, is not put to his election.

Illustration.

The lands of Sultánpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultánpur to B, and 1,000 rupees to C. C dies intestate, shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the Will. In that capacity he receives the legacy of 1,000 rupees, and accounts to B for the rents of the lands of Sultánpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultánpur in opposition to the Will.

A person taking under a Will in his individual capacity, may in another character elect to take in opposition to it.

172. A person who in his individual capacity takes a benefit under the Will, may in another character elect to take in opposition to the Will.

Illustration.

The estate of Sultánpur is settled upon A for life, and after his death upon B. A leaves the estate of Sultánpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultánpur in opposition to the Will, and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the Will.

Exception to the six last Rules.—Where a particular gift is expressed in the Will to be in lieu of something belonging to the legatee, which is also in terms disposed of by the Will, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the Will.

Illustration.

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultánpur during her life.

A by his Will bequeaths to his wife an annuity of 200*l.* during her life, in lieu of her interest in the estate of Sultánpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000*l.* The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity, but not the legacy of 1,000*l.*

173. Acceptance

173. Acceptance of a benefit given by the Will constitutes an election by the legatee to take under the Will, if he has knowledge of his right to elect, and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

When acceptance of a benefit given by a Will constitutes an election to take under the Will.

Illustrations.

(*a*) A is owner of an estate called Sultánpur Khurd and has a life interest in another estate called Sultánpur Buzurg to which, upon his death, his son B will be absolutely entitled. The Will of A gives the estate of Sultánpur Khurd to B, and the estate of Sultánpur Buzurg to C. B, in ignorance of his own right to the estate of Sultánpur Buzurg allows C to take possession of it, and enters into possession of the estate of Sultánpur Khurd. B has not confirmed the bequest of Sultánpur Buzurg to C.

(*b*) B, the eldest son of A, is the possessor of an estate called Sultánpur. A bequeaths Sultánpur to C, and to B the residue of A's property. B, having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultánpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultánpur to C.

174. Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the Will without doing any act to express dissent.

Presumption arising from enjoyment by legatee for two years.

175. Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

Confirmation of bequest by act of legatee.

Illustration.

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine, and exhausts it. He has thereby confirmed the bequest of the estate to B.

176. If the legatee shall not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the Will, the representatives shall, upon the expiration of that period, require him to make

When testator's representatives may call upon legatee to elect.

to make his election ; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the Will.

Effect of non-compliance with their request within a reasonable time.

Postponement of election in case of disability.

177. In case of disability the election shall be postponed until the disability ceases, or until the election shall be made by some competent authority.

PART XXVIII.

Of Gifts in Contemplation of Death.

Property transferable by gift made in contemplation of death

When a gift is said to be made in contemplation of death

178. A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by Will. A gift is said to be made in contemplation of death where a man who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness.

Such gift resumable.

When it fails.

Such a gift may be resumed by the giver. It does not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

Illustrations

(*a*) A being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death—

A watch.

A bond granted by C to A

A Bank Note.

A promissory note of the Government of India endorsed in blank.

A Bill of Exchange endorsed in blank

Certain mortgage deeds

A dies of the illness during which he delivered these articles.

B is entitled to—

The watch.

The debt secured by C's bond.

The Bank Note.

The promissory note of the Government of India.

The Bill of Exchange

The money secured by the mortgage deeds.

(*b*) A

(*b*) A being ill, and in expectation of death, delivers to B the key of a trunk, or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents, or to A's goods of bulk in the warehouse.

(*c*) A being ill, and in expectation of death, puts aside certain articles in separate parcels, and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

PART XXIX.

Of Grant of Probate and Letters of Administration.

Character and property of executor or administrator as such.

179. The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

Administration with copy annexed of authenticated copy of Will proved abroad.

180. When a Will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the Province, whether in the British dominions, or in a foreign country, and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate to be granted to executor appointed by Will.

181. Probate can be granted only to an executor appointed by the Will.

Appointment express or implied.

182. The appointment may be express or by necessary implication.

Illustrations.

(*a*) A wills that C be his executor if B will not; B is appointed executor by implication.

(*b*) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(*c*) A

(c) A appoints several persons executors of his Will and Codicils, and his nephew residuary legatee, and in another Codicil are these words:—"I appoint my nephew my residuary legatee to discharge all lawful demands against my Will and Codicils, signed of different dates." The nephew is appointed an executor by implication.

Persons to whom probate cannot be granted.

183. Probate cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Grant of probate to several executors simultaneously or at different times.

184. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Illustration.

A is an executor of B's Will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

Separate probate of Codicil discovered after grant of probate.

Procedure when different executors are appointed by the Codicil.

185. If a Codicil be discovered after the grant of probate, a separate probate of that Codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the Will. If different executors are appointed by the Codicil, the probate of the Will must be revoked, and a new probate granted of the Will and the Codicil together.

Accrual of representation to surviving executor.

186. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

No right as executor or legatee can be established, unless probate or letters of administration shall have been granted by a competent Court.

187. No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction within the Province shall have granted probate of the Will under which the right is claimed, or shall have granted letters of administration under the one-hundred and eightieth Section.

188. Probate

Probate establishes the Will from testator's death.

188. Probate of a Will when granted establishes the Will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Persons to whom letters of administration may not be granted.

189. Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

No right to intestate's property can be established, unless administration previously granted by a competent Court.

190. No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

From what period letters of administration entitle administrator to intestate's rights.

191. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Acts of administrator not validated by letters of administration.

192. Letters of administration do not render valid any intermediate acts of the administrator, tending to the diminution or damage of the intestate's estate.

Grant of administration where executor has not renounced.

193. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship; except that when one or more of several executors have proved a Will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Exception.

Form and effect of renunciation of executorship.

194. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the Will appointing him executor.

195. If

195. If the executor renounce, or fail to accept the executorship within the time limited for the acceptance or refusal thereof, the Will may be proved and letters of administration, with a copy of the Will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

Procedure where executor renounces or fails to accept within the time limited.

196. When the deceased has made a Will, but has not appointed an executor, or when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the Will, or when the executor dies after having proved the Will but before he has administered all the estate of the deceased; an universal or a residuary legatee may be admitted to prove the Will, and letters of administration with the Will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

Grant of administration to universal or residuary legatee.

197. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the Will annexed as such residuary legatee.

Right to administration of representative of deceased residuary legatee.

198. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the Will, and letters of administration may be granted to him or them accordingly.

Grant of administration when there is no executor, nor residuary legatee, nor representative of such legatee.

199. Letters of administration with the Will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next of kin to accept or refuse letters of administration.

Citation to be issued before grant of administration to any legatee other than universal or residuary.

200. When

Order in which connections by marriage or consanguinity are entitled to administration.

200. When the deceased has died intestate, those who are connected with him either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated.

Administration to be granted to widow unless Court see cause to exclude her.

201. If the deceased has left a widow, administration shall be granted to the widow unless the Court shall see cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Illustrations.

(*a*) The widow is a lunatic, or has committed adultery, or has been barred by her marriage settlement of all interest in her husband's estate; there is cause for excluding her from the administration.

(*b*) The widow has married again since the decease of her husband; this is not good cause for her exclusion.

Persons associated with widow in administration.

202. If the Judge think proper, he may associate any person or persons with the widow in the administration, who would be entitled solely to the administration if there were no widow.

Grant of administration where no widow, or widow excluded.

Proviso.

203. If there be no widow, or if the Court see cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate; provided that when the mother of the deceased shall be one of the class of persons so entitled, she shall be solely entitled to administration.

Deceased's kindred of equal degree, equally entitled to administration.

204. Those who stand in equal degree of kindred to the deceased, are equally entitled to administration.

205. The

Right of widower to administration of wife's estate.

205. The husband, surviving his wife, has the same right of administration of her estate as the widow has in respect of the estate of her husband.

Grant of administration to a creditor.

206. When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration, and willing to act, they may be granted to a creditor.

Where deceased has left property in British India, administration must be granted according to the foregoing rules.

207. Where the deceased has left property in British India, letters of administration must be granted according to the foregoing rules, although he may have been a domiciled inhabitant of a country in which the law relating to testate and intestate succession differs from the law of British India.

PART XXX.

Of Limited Grants.

(*a*). *Grants limited in Duration.*

Probate of copy or draft of lost Will.

208. When the Will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the Will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of contents of lost or destroyed Will.

209. When the Will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

210. When

210. When the Will is in the possession of a person residing out of the Province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the Will or an authenticated copy of it be produced.

Probate of copy where original exists.

211. Where no Will of the deceased is forthcoming, but there is reason to believe that there is a Will in existence, letters of administration may be granted, limited until the Will, or an authenticated copy of it, be produced.

Administration until the Will be produced.

(*b.*) *Grants for the Use and Benefit of others having Right.*

212. When any executor is absent from the Province in which application is made, and there is no executor within the Province willing to act, letters of administration, with the Will annexed, may be granted to the Attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with the Will annexed, to Attorney of an absent executor.

213. When any person to whom, if present, letters of administration with the Will annexed might be granted, is absent from the Province, letters of administration with the Will annexed may be granted to his Attorney, limited as above-mentioned.

Administration, with the Will annexed, to Attorney of an absent person, who, if present, would be entitled to administer.

214. When a person entitled to administration in case of intestacy is absent from the Province, and no person equally entitled is willing to act, letters of administration may be granted to the Attorney of the absent person, limited as before mentioned.

Administration to Attorney of absent person entitled to administer in case of intestacy.

215. When a minor is sole executor or sole residuary legatee, letters of administration, with the Will annexed, may be granted to the legal guardian of such minor or to such other person

Administration during minority.

person as the Court shall think fit until the minor shall have completed the age of eighteen years, at which period and not before, probate of the Will shall be granted to him.

Administration until one of several minor executors or residuary legatees attains majority.

216. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have completed the age of eighteen years.

Administration for use and benefit of lunatic *jus habens*.

217. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates, be a lunatic, letters of administration, with or without the Will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or if there be no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the lunatic until he shall become of sound mind.

Administration *pendente lite*.

218. Pending any suit touching the validity of the Will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

(c.) *For Special Purposes.*

Probate limited to purpose specified in the Will.

219. If an executor be appointed for any limited purpose specified in the Will, the probate shall be limited to that purpose, and if he should appoint an Attorney to take administration on his behalf, the letters of administration with the Will annexed shall accordingly be limited.

220. If

220. If an executor appointed generally give an authority to an Attorney to prove a Will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the Will annexed shall be limited accordingly.

Administration with the Will annexed limited to a particular purpose.

221. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

Administration limited to property in which a person has a beneficial interest.

222. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to a suit.

223. If at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the Province within which the Court that has granted the probate or letters of administration is situate, it shall be lawful for such Court to grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to the purpose of becoming a party to a suit to be brought against administrator.

224. In any case in which it may appear necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate, may grant to any person whom such Court may think fit, letters of administration

Administration limited to collection and preservation of deceased's property.

tration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

Appointment as administrator, of person other than the one who under ordinary circumstances would be entitled to administration.

225. When a person has died intestate, or leaving a Will of which there is no executor willing and competent to act, or where the executor shall, at the time of the death of such person, be resident out of the Province, and it shall appear to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who under ordinary circumstances would be entitled to a grant of administration, it shall be lawful for the Judge, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, to appoint such person as he shall think fit to be administrator, and in every such case letters of administration may be limited or not as the Judge shall think fit.

(d.) Grants with Exception.

Probate or administration with the Will annexed, subject to exception.

226. Whenever the nature of the case requires that an exception be made, probate of a Will, or letters of administration with the Will annexed, shall be granted subject to such exception.

Administration with exception.

227. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

(e.) Grants of the Rest.

Probate or administration of the rest.

228. Whenever a grant, with exception, of probate or letters of administration, with or without the Will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of

of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

(*f*) *Grants of Effects unadministered.*

Grant of effects unadministered.

229. If the executor to whom probate has been granted have died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Rules as to grants of effects unadministered.

230. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Administration when a limited grant has expired, and there is still some part of the estate unadministered.

231. When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

(*g*) *Alteration in Grants.*

What errors may be rectified by the Court.

232. Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

Procedure where Codicil discovered after grant of administration with Will annexed.

233. If, after the grant of letters of administration with the Will annexed, a Codicil be discovered, it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

(*h*) *Revocation*

(h) *Revocation of Grants.*

Revocation or annulment for just cause, of grant of probate or administration.

234. The grant of probate or letters of administration may be revoked or annulled for just cause.

"Just cause."

Explanation.—Just cause is—1st, that the proceedings to obtain the grant were defective in substance; 2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; 3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; 4th, that the grant has become useless and inoperative through circumstances.

Illustrations.

(a) The Court by which the grant was made had no jurisdiction.

(b) The grant was made without citing parties who ought to have been cited.

(c) The Will of which probate was obtained was forged or revoked.

(d) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(e) A has taken administration to the estate of B as if he had died intestate, but a Will has since been discovered.

(f) Since probate was granted, a later Will has been discovered.

(g) Since probate was granted, a Codicil has been discovered, which revokes or adds to the appointment o executors under the Will.

(h) The person to whom probate was or letters of administration were granted has subsequently become of unsound mind.

PART XXXI.

Of the Practice in granting and revoking Probates and Letters of Administration.

Jurisdiction of District Judge in granting and revoking probates and letters of administration.

235. The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his District.

District Judge's powers as to the granting of probate and administration.

236. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any Civil suit or proceeding depending in his Court.

District Judge may order any person to produce testamentary papers.

237. The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit, and had made such default, and the costs of the proceeding shall be in the discretion of the Judge.

Proceedings of District Judge's Court in relation to probate and administration.

238. The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated so far as the circumstances of the case will admit by the Code of Civil Procedure.

239. Until

When and how District Judge is to interfere for the protection of property.

239. Until probate be granted of the Will of a deceased person, or an administrator of his estate be constituted, the District Judge within whose jurisdiction any part of the property of the deceased person is situate, is authorized and required to interfere for the protection of such property, at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he shall see fit, to appoint an officer to take and keep possession of the property.

Probate or administration may be granted by District Judge, when testator or intestate at his death had a fixed dwelling or any property within the jurisdiction.

240. Probate of the Will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it shall appear by a petition verified as hereinafter mentioned, of the person applying for the same, that the testator or intestate, as the case may be, at the time of his decease, had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

When application is made to the Judge of a District in which the deceased had no fixed abode.

241. When the application is made to the Judge of a District in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another District, or where the application is for letters of administration, to grant them absolutely or limited to the property within his own jurisdiction.

Conclusiveness of probate or letters of administration.

242. Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the Province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their

their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Conclusiveness of application for probate or administration, if properly made and verified.

243. The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration, and no such grant shall be impeached, by reason that the testator or intestate had no fixed place of abode, or no property within the District at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Petition for probate.

244. Application for probate shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will annexed, and stating the time of the testator's death, that the writing annexed is his last Will and testament, that it was duly executed, ~~and that the petitioner is the executor therein named~~; and in addition to these particulars, when the application is to the District Judge, the petition shall further state that the deceased at the time of his death had his fixed place of abode, or had some property, moveable or immoveable, situate within the jurisdiction of the Judge.

In what cases translation of Will to be annexed to the petition.

245. In cases wherein the Will is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or if the Will be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner :—"I (A B) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof."

Verification of translation made by any person other than the Court translator.

246. Applications

246. Applications for letters of administration shall be made by petition distinctly written as aforesaid, and stating the time and place of the deceased's death, the family or other relatives of the deceased, and their respective residences, the right in which the petitioner claims, that the deceased left some property within the jurisdiction of the District Judge to whom the application is made, and the amount of assets which are likely to come to the petitioner's hands.

Petition for letters of administration.

247. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect :—

Petition for probate or letters of administration to be signed and verified.

"I (*A B*), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief."

248. Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the Will (when procurable), in the manner or to the effect following :—

Verification of petition for probate, by one of the witnesses to the Will.

"I (*C D*), one of the witnesses to the last Will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*as the case may be*), (*or* that the said testator acknowledged the writing annexed to the above petition to be his last Will and testament in my presence)."

249. If any petition or declaration which is hereby required to be verified shall contain any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Punishment for making false averment in petition or declaration.

250. In

250. In all cases it shall be lawful for the District Judge, if he shall think proper, to examine the petitioner in person, upon oath or solemn affirmation, and also to require further evidence of the due execution of the Will, or the right of the petitioner to the letters of administration, as the case may be, and to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration. The citation shall be fixed up in some conspicuous part of the Court-house, and also in the Office of the Collector of the District, and otherwise published or made known in such manner as the Judge issuing the same may direct.

District Judge may examine petitioner in person and require further evidence, and issue citations to inspect the proceedings.

Publication of citation.

251. Caveats against the grant of probate or administration may be lodged with the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to any other Judge to whom it may appear to the District Judge expedient to transmit the same.

Caveat against grant of probate or administration.

252. The caveat shall be to the following effect:—"Let nothing be done in the matter of the estate of A B, late of , deceased, who died on the day of at without notice to C D of "

Form of caveat.

253. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge to whom the application has been made, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

After entry of caveat, no proceeding to be taken on the petition until after notice to the caveator.

254. When it shall appear to the Judge that probate of a Will should be granted, he will grant the same under the seal of his Court in manner following:—

Grant of probate to be under seal of the Court.

"I,

Form of such grant.

"I, Judge of the District of hereby make known that on the day of in the year the last Will of late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his Will, was granted to the executor in the said Will named, ~~he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of a year next ensuing, and also to render a true account thereof.~~"

Grant of letters of administration to be under seal of Court.

255. And wherever it shall appear to the District Judge that letters of administration to the estate of a person deceased, with or without a copy of the Will annexed, should be granted, he will grant the same under the seal of his Court in manner following :—

Form of such grant.

"I, , Judge of the District of , hereby make known that on the day of letters of administration (with *or* without the Will annexed, *as the case may be*) of the property and credits of , late of , deceased, were granted to , the father (*or as the case may be*) of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of one year next ensuing, and also to render a true account thereof."

Administration-bond.

256. ~~Every person to whom any grant of administration shall be committed~~ shall give a bond to the Judge of the District Court to enure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge shall from time to time by any general or special order direct.

257. The

Assignment of administration-bond.

257. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

Probate not to be granted until after seven days, and letters of administration until after fourteen days, from the testator's or intestate's death.

258. No probate of a Will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

Filing of original Wills of which probate or letters of administration with Will annexed have been granted.

259. Every District Judge shall file and preserve all original Wills of which probate or letters of administration with the Will annexed may be granted by him among the records of his Court, until some public registry for Wills is established; and the Local Government shall make regulations for the preservation and inspection of the Wills so filed as aforesaid.

Grantee of probate or letters of administration shall alone have power to sue, &c., until the same shall have been revoked.

260. After any grant of probate or letters of administration no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

Procedure in contentious cases.

261. In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions

visions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Payment to executor or administrator before probate or letters of administration revoked.

Right of such executor or administrator to recoup himself for payments.

262. Where any probate is or letters of administration are revoked, all payments *bonâ fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of any payments made by him, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

Appeals from orders made by District Judge under powers conferred by this Act.

263. Every order made by a District Judge by virtue of the powers hereby conferred upon him, shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Concurrent jurisdiction of High Court.

264. The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

PART XXXII.

Of Executors of their own Wrong.

Executor of his own wrong.

265. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Exceptions.

Exceptions. First.—Intermeddling with the goods of the deceased for the purpose of preserving them, or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

Second.—Dealing in the ordinary course of business with goods of the deceased received from another, does not make an executor of his own wrong.

Illustrations.

(*a*) A uses or gives away or sells some of the goods of the deceased, or takes them to satisfy his own debt or legacy, or receives payment of the debts of the deceased. He is an executor of his own wrong.

(*b*) A having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(*c*) A sues as executor of the deceased, not being such. He is an executor of his own wrong.

Liability of an executor of his own wrong.

266. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands, after deducting payments made to the rightful executor or administrator, and payments made in a due course of administration.

PART XXXIII.

Of the Powers of an Executor or Administrator.

In respect of causes of action surviving the deceased, and rents due at the time of his death.

267. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and to distrain for all rents due to him at the time of his death, as the deceased had when living.

268. All

Demands and rights of action in favour of or against deceased, survive to and against his executor or administrator.

268. All demands whatsoever and all rights to prosecute or defend any action or special proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators ; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party ; and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

Illustrations.

(*a*) A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(*b*) A sues for divorce. A dies. The cause of action does not survive to his representative.

Power of executor or administrator to dispose of deceased's property.

269. An executor or administrator has power to dispose of the property of the deceased, either wholly or in part, in such manner as he may think fit.

Illustrations.

(*a*) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(*b*) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

Purchase by executor or administrator of deceased's property.

270. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

271. When

Powers of several executors or administrators, exercisable by one.

271. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the Will or taken out administration.

Illustrations.

(*a*) One of several executors has power to release a debt due to the deceased.

(*b*) One has power to surrender a lease.

(*c*) One has power to sell the property of the deceased, moveable or immoveable.

(*d*) One has power to assent to a legacy.

(*e*) One has power to endorse a promissory note payable to the deceased.

(*f*) The Will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

272. Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.

Powers of administrator of effects unadministered.

273. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

Powers of administrator during minority.

274. An administrator during minority has all the powers of an ordinary administrator.

Powers of married executrix or administratrix.

275. When probate or letters of administration have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

PART XXXIV.

Of the Duties of an Executor or Administrator.

As to deceased's funeral.

276. It is the duty of an executor to perform the funeral of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

277. An

277. An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same may have been granted an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the date aforesaid, exhibit an account of the estate, showing the assets that may have come to his hands, and the manner in which they have been applied or disposed of.

Inventory and account.

278. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

Duty of executor or administrator as to property of, and debts owing to, the deceased.

279. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

Expenses to be paid before all debts.

280. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Expenses to be paid next after such expenses.

281. Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased.

Wages for certain services to be next paid, and then the other debts.

282. Save as aforesaid, no creditor is to have a right of priority over another, by reason that his debt is secured by an instrument under seal, or on any other account. But the executor or administrator shall pay all such debts as he knows

Save as aforesaid, all debts to be paid equally and rateably.

Section 283.—I[illegible]ws of, including his own, equally and rateably, as far as the assets of the country in [illegible]ased will extend.
"British I[illegible]

Application of moveable property to payment of debts, where the deceased's domicile was not in British India.

283. If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of the country in which he was domiciled.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 10,000 rupees, immoveable property to the value of 5,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The debts on the instruments under seal are to be paid in full out of the moveable estate, and the proceeds of the immoveable estate are to be applied as far as they will extend towards the discharge of the debts not under seal. Accordingly, one-half of the amount of the debts not under seal is to be paid out of the proceeds of the immoveable estate.

Creditor paid in part under Section 283 to bring such payment into account before sharing in proceeds of immoveable property.

284. No creditor who has received payment of a part of his debt by virtue of the last preceding Section shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 rupees, and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees, which are to be distributed rateably amongst all the creditors without distinction in proportion to the amount which may remain due to them.

Debts to be paid before legacies.

285. Debts of every description must be paid before any legacy.

286. If

286. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Executor or administrator not bound to pay legacies without indemnity.

287. If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

Abatement of general legacies.

Executor not to pay one legatee in preference to another.

288. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Non-abatement of specific legacy when assets sufficient to pay debts.

289. Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Right under demonstrative legacy, when the assets are sufficient to pay debts and necessary expenses.

290. If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

Rateable abatement of specific legacies.

Illustration.

A has bequeathed to B a diamond ring, valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

291. For

Legacies treated as general for purpose of abatement.

291. For the purpose of abatement, a legacy for life, a sum appropriated by the Will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

PART XXXV.

Of the Executor's Assent to a Legacy.

Executor's assent necessary to complete legatee's title.

292. The assent of the executor is necessary to complete a legatee's title to his legacy.

Illustrations.

(*a*) A by his Will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*b*) A by his Will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor.

Effect of executor's assent to specific legacy.

Assent may be verbal, and either express or implied.

293. The assent of the executor to a specific bequest shall be sufficient to devest his interest as executor therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way. This assent may be verbal, and it may be either express or implied from the conduct of the executor.

Illustrations.

(*a*) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*b*) The interest of a fund is directed by the Will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(*c*) A

(c) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(d) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(e) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

294. The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

Illustrations.

(a) A bequeaths to B his lands of Sultánpur, which at the date of the Will, and at the death of A, were subject to a mortgage for 10,000 rupees. The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(b) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

Implied assent.

295. When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied. Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

Illustration.

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

Assent of executor gives effect to legacy from testator's death.

296. The assent of the executor to a legacy gives effect to it from the death of the testator.

Illustrations.

Illustrations

(*a*) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(*b*) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor not bound to pay or deliver legacies until after one year from testator's death.

297. An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

Illustration.

A by his Will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

PART XXXVI.

Of the Payment and Apportionment of Annuities.

Commencement of annuity when no time fixed by Will.

298. Where an annuity is given by the Will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

When payment of annuity to be paid quarterly or monthly first falls due.

299. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor think fit, be paid when due, but the executor shall not be bound to pay it till the end of the year.

Dates of successive payments when first payment of an annuity directed to be made within a given time, or on a day certain.

Apportionment where annuitant dies between times of payment.

300. Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the Will authorizes the first payment to be made; and if the annuitant should die in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

PART XXXVII.

Of the Investment of Funds to provide for Legacies.

Investment of sum bequeathed where a legacy, not specific, is given for life.

301. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of amount of general legacy, to be paid at a future time.

Intermediate interest.

302. Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding Section. The intermediate interest shall form part of the residue of the testator's estate.

Procedure when no fund is charged with or appropriated to an annuity.

303. Where an annuity is given and no fund is charged with its payment or appropriated by the Will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

Transfer to residuary legatee of amount of contingent bequest.

304. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee on his giving sufficient security for the payment of the legacy if it shall become due.

Investment of residue bequeathed to a person for life, without direction to invest in particular securities.

305. Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in such securities, as the High Court may for the time being regard as good securities, shall be converted into money and invested in such securities.

306. Where

306. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Investment of residue bequeathed to a person for life, with direction to invest in specified securities.

307. Such conversion and investment as are contemplated by the two last preceding Sections shall be made at such times and in such manner as the executor shall in his discretion think fit; and until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Time and manner of the conversion and investment.

Interest payable until investment.

308. Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the Will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom the probate was or letters of administration with the Will annexed were granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if the legatee be a ward of the Court of Wards the legacy shall be paid into that Court to his account, and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid; and such money when paid in shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

Procedure where minor is entitled to immediate payment or possession of bequest, and there is no direction to pay to any person on his behalf.

PART XXXVIII.

PART XXXVIII.

Of the Produce and Interest of Legacies.

Legatee of a specific legacy entitled to produce thereof from testator's death.

309. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Exception.—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

Illustrations.

(*a*) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(*b*) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(*c*) The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

Residuary legatee entitled to produce of residuary fund from testator's death.

310. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Exception.—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations.

(*a*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*b*) The

(*b*) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

Interest when no time is fixed for payment of a general legacy.

311. Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

Exceptions.—(1.) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2.) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3.) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time has been fixed.

312. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the Will for maintenance.

Rate of interest.

313. The rate of interest shall be four per cent. per annum.

No interest payable on arrears of annuity within first year after testator's death.

314. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the Will for making the first payment of the annuity.

315. Where

Interest payable on sum to be invested to produce annuity.

315. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

PART XXXIX.

Of the Refunding of Legacies.

Refund of legacy paid under Judge's orders.

316. When an executor has paid a legacy under the order of a Judge, he is entitled to call upon the legatee to refund, in the event of the assets proving insufficient to pay all the *Legacies*.

No refund if legacy paid voluntarily.

317. When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

Refund when legacy has become due on performance of a condition within further time allowed under Section 124.

318. When the time prescribed by the Will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets ; in such case, if further time has been allowed under the one hundred and twenty-fourth Section, for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

When each legatee is compellable to refund in proportion.

319. When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

Distribution of assets.

320. Where an executor or administrator has given such notices as would have been given by the High Court in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets,

assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution ; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may follow assets.

321. A creditor who has not received payment of his debt may, within two years after the death of the testator or one year after the legacy has been paid, call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies ; and whether the payment of the legacy by the executor was voluntary or not.

Within what period a creditor may call upon a legatee to refund.

322. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding Section, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When a legatee who has not received payment or who has been compelled to refund under Section 321, cannot oblige one who has received payment in full to refund.

323. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent ; but if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

When an unsatisfied legatee must first proceed against executor, if solvent.

324. The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

Limit to the refunding of one legatee to another.

Illustration.

Illustration

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees, and if properly administered would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees, and D to refund 120 rupees.

Refunding to be without interest.

325. The refunding shall in all cases be without interest.

Residue of the deceased's property after usual payments to be paid to residuary legatee.

326. The surplus or residue of the deceased's property after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the Will.

PART XL.

Of the Liability of an Executor or Administrator for Devastation.

Liability of executor or administrator for devastation.

327. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

Illustrations.

(*a*) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(*b*) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(*c*) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

For neglect to get in any part of the deceased's property.

328. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Illustrations.

Illustrations.

(*a*) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(*b*) The executor neglects to sue for a debt till the debtor is able to plead the Act for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount.

PART XLI.

Miscellaneous.

Stamps and fees on instruments mentioned in this Act.

329. For every instrument or writing of any of the kinds specified in the Schedule to this Act, and which shall be made or executed after the commencement of this Act, there shall be payable to Government a Stamp duty or fee of the amount indicated in the said Schedule.

Saving of rights, duties, and privileges of Administrator General.

330. Nothing contained in this Act shall be deemed or taken to supersede or affect the rights, duties, and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively, under or by virtue of Act VIII of 1855 (*to amend the law relating to the office and duties of Administrator General*), Act XXVI of 1860 (*to amend Act VIII of* 1855), The Regimental Debts Act, 1863, and the Administrator General's Act, 1865; and it shall be the duty of the Magistrate or other Chief Officer charged with the executive administration of a district or place in criminal matters, whenever any person to whom the provisions of this Act shall apply shall die within the limits of his jurisdiction, to report the circumstances without delay to the Administrator General of the Province, retaining the property under his charge until letters of administration shall have been obtained by that Officer or by some other person, when the property is to be delivered over to the person obtaining such letters, or who may obtain probate of the Will (if any) of the deceased.

331. The

331. The provisions of this Act shall not apply to Intestate or Testamentary succession to the property of any Hindú, Muhammadan or Buddhist; nor shall they apply to any Will made, or any intestacy occurring before the first day of January 1866. The fourth Section shall not apply to any marriage contracted before the same day.

Succession to property of Hindús, Muhammadans or Buddhists and certain Wills, Intestacies and marriages not affected by this Act.

332. The Governor-General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect or tribe in British India or any part of such race, sect or tribe, to whom he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor-General of India in Council shall also have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this Section shall be published in the Gazette of India.

Power of Governor-General to exempt any race, sect, or tribe in British India from the operation of this Act.

SCHEDULE.

STAMPS.

		Stamps.		
Petition for probate or letters of administration where the value of the estate exceeds Rupees five hundred ...	Rupees	10	0	0
Ditto where the value of the estate is less than Rupees five hundred ...	Rupee	1	0	0
Probate or letters of administration ...	Rupees	8	0	0
Caveat ...	Rupees	4	0	0
Citation ...	Rupee	1	0	0
All petitions other than those abovementioned ...	Rupee	1	0	0
Inventory ...	Rupee	1	0	0
Administration-bond ...	Rupees	8	0	0

FEE.

Translations by the Court Translator or by order of the Court, per folio of ninety words ...	Rupees	2	0	0

BENGAL LEGISLATIVE LIBRARY

ACT No. XI OF 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 15th March 1865).

An Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature, It is enacted as follows :—

Interpretation clause

1. In this Act, unless there be something repugnant in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

Gender.

Words importing the masculine gender include females.

"Judge."

"Judge" includes an Acting Judge.

"Section"

"Section" means a Section of this Act.

"Court of Small Causes."

"Court of Small Causes" means a Court constituted under this Act.

A

And,

PRICE FOUR ANNAS.

And, in every part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part, and "High Court" denotes the highest Civil Court of Appeal having jurisdiction therein.

"Local Government."

"High Court."

2. Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and Act XII of 1861 (*to amend Act XLII of* 1860) are hereby repealed: Provided that any Courts of Small Causes now in existence which shall have been constituted under Act No. XLII of 1860, shall be considered as constituted under this Act within the territorial limits of the jurisdiction assigned to such Courts under the said Act XLII of 1860 or which may hereafter be assigned to them under the next following Section, and shall be subject to all the provisions contained herein; and all suits and proceedings pending in any such Courts shall be heard and determined in the same manner as suits and proceedings are required to be heard and determined under this Act; but this Act shall not in any way invalidate or alter the effect of anything which shall have been done in any such suit or proceeding prior to the commencement of this Act.

Repeal of Acts XLII of 1860, and XII of 1861.

3. The Local Government may, with the previous sanction of the Governor-General of India in Council, constitute for the trial of suits under this Act, Courts of Small Causes with such establishment of Officers as may be necessary, at any places within the Territories under such Government. Whenever a Court of Small Causes shall be so constituted, the Local Government shall fix the territorial limits of the jurisdiction of such Court, and may from time to time alter the limits so fixed. The Local Government may abolish any Court of Small Causes.

Constitution of Small Cause Courts.

Limits of their territorial jurisdiction to be fixed by Local Government.

4. Every Court of Small Causes shall use a seal bearing the following inscription in English and in the language of the Court—"Court of Small Causes of ",—and shall

Seal of the Court.

Courts to be generally subject to the High Court.

shall be subject to the general control and orders of the High Court.

5. Courts of Small Causes shall be held at such place or places within the local limits of their respective jurisdictions, as shall from time to time be appointed by the Local Government.

Places where Courts to be held.

6. The following are the suits which shall be cognizable by Courts of Small Causes, namely, claims for money due on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees whether on balance of account or otherwise:

Suits cognizable by Small Cause Courts.

Proviso.

Provided that no action shall lie in any such Court—

(1) On a balance of partnership account, unless the balance shall have been struck by the parties or their agents:

(2) For a share or part of a share under an intestacy, or for a legacy or part of a legacy under a Will:

(3) For the recovery of damages on account of an alleged personal injury, unless actual pecuniary damage shall have resulted from the injury:

(4) For any claim for the rent of land or other claim for which a suit may now be brought before a Revenue Officer, unless, as regards arrears of rent for which such suit may be brought, the Judge of the Court of Small Causes shall have been expressly invested by the Local Government with jurisdiction over claims to such arrears.

7. The Local Government may extend the jurisdiction of any Court of Small Causes, in suits of the nature described in the last preceding Section and thereby made cognizable by Courts of Small Causes, to an amount not exceeding one thousand Rupees.

Power to extend jurisdiction of Small Cause Courts to Rupees one thousand.

8. Courts

8. Courts of Small Causes may try all such suits as are described in the sixth Section and thereby made cognizable by Courts of Small Causes, if the defendant at the time of the commencement of the suit shall dwell, or personally work for gain or carry on business, within the local limits of the jurisdiction of such Court; or if the cause of action arose within the said local limits, and the defendant, at the time of the commencement of the suit, shall by his servant or agent carry on business or work for gain within those limits.

Jurisdiction of the Courts.

Explanations.—(*a.*) Where a person has a permanent dwelling at one place, and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(*b.*) A Corporation or Company shall be deemed to carry on business at its sole or principal office, or at any place where it has also a subordinate office in respect of any cause of action arising at such place.

(*c.*) The 'business' contemplated in this Section must be carried on at some fixed place for at least a certain time.

9. Suits against the Local Government or against the Government of India shall be brought in the Court having jurisdiction at the place which is the seat of such Government.

Suits against Government.

10. Suits against the Secretary of State shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose.

Suits against the Secretary of State.

11. Service of a summons issued under this Act, on any servant or agent by whom the defendant may carry on business or work for gain, shall be deemed to be good service upon the defendant, provided that such agent or servant himself, at the time of such service,

Substituted service of summons.

service, personally carries on the business or work for gain for the defendant, within the local limits of the jurisdiction of the Court in which the suit is brought.

Suits cognizable by a Court of Small Causes not to be heard by any other Court having jurisdiction within the local limits.

Saving of jurisdiction of Magistrates as to debts.

Of Village Moonsiffs and Village or District Panchâyats in Madras.

Of Military Courts of Requests.

Of Officers appointed to try small suits in Madras and Bombay.

Or of Military Panchâyats in Madras.

12. Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court shall be heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Court of Small Causes: Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or Deputy Magistrate, can now exercise in regard to debts or other claims of a Civil nature; or the jurisdiction which can be exercised by Village Moonsiffs, or Village or District Panchâyats, under the provisions of the Madras Code; or by Military Courts of Requests, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III of 1859 (*for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates and for constituting those Officers Registers of Deeds*); or by a single Officer duly authorized and appointed under the Rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazaars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively; or by Panchâyats in regard to suits against Military persons, according to the Rules in force in the Presidency of Madras.

Judge of Court.

13. Every Court of Small Causes shall (except as hereinafter provided) be held before a Judge appointed by the Local Government, and who shall receive such salary as the Governor-General of India in Council may from time to time determine. Such Judge shall be the Judge either of one such Court or of two or more such Courts as the Local Government shall appoint, but except as hereinafter provided, he shall not exercise any Civil jurisdiction except under the provisions of this Act.

14. It

14. It shall be lawful for any Judge who is the Judge of two or more Courts of Small Causes to fix, subject to the orders of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority, the times at which he will go on Circuit, and the dates on which his sittings in the several Courts of which he is Judge shall commence. Notice of such times and dates shall be published in the Official Gazette and at such places and in such manner as the Local Government or Chief Commissioner or other Authority as aforesaid shall think fit to direct in that behalf.

Power to Judge of several Courts to fix times and dates of circuits and sittings.

15. The Local Government may from time to time invest any person with the powers of a Judge of a Court of Small Causes under this Act for a limited period, or for specific periods in each year only, and declare in what Court or Courts of Small Causes such powers shall be exercised by such person. Any person so invested shall, in all Courts in which the Local Government shall have declared that he shall exercise the said powers, have all such powers as might in such Courts be exercised by a Judge of the said Courts appointed under the thirteenth Section.

Local Government may invest any person, for a limited period, with powers of Judge of Court of Small Causes.

Powers to be exercised by persons so invested.

16. If it shall be declared by the Local Government that any person invested under the last preceding Section with the powers of a Judge of a Court of Small Causes, shall exercise those powers in a Court of which there is a Judge appointed under the thirteenth Section, the person so invested shall exercise a jurisdiction concurrent with that of such Judge. The Local Government shall from time to time make Rules to provide for the distribution of business between any person so invested and any Judge in whose Court it may be declared that such person shall exercise his powers, and generally for regulating and defining the duties and relative positions of Judges of Courts of Small Causes and persons so invested as aforesaid: Provided always that no such Rule shall be in any way inconsistent with the provisions of this Act.

Jurisdiction to be exercised by persons so invested in Court in which there is a Judge.

17. Every

17. Every person invested with the powers of a Judge of a Court of Small Causes under the fifteenth Section shall receive such remuneration as the Governor-General in Council shall from time to time determine. It shall not be lawful for any such person to practise as a Barrister, Attorney, Vakeel, Pleader, or Law Agent in any District or place within the territorial limits of which he is empowered to exercise the powers with which he is invested.

Remuneration of Judges and of persons invested with powers of Small Cause Court Judge, and restriction from practising within the limits

18. In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

Summons

19 When a decree is passed in any suit of the nature and amount cognizable under this Act, the Court passing the decree may, at the same time that it passes the decree, on the verbal application of the party in whose favour the decree is given, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the movable property of the judgment-debtor within the same limits. If the warrant be directed against the movable property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, and which shall be indicated by the judgment-creditor.

In suits cognizable by Small Cause Courts, Court may on the judgment-creditor's application direct immediate execution against the judgment-debtor's person or movable property

20. In the execution of a decree under this Act, if, after the sale of the movable property of a judgment-debtor, any portion of a judgment-debt shall remain due, and the holder of the judgment desire to issue execution upon any immovable property

Execution against immovable property, if movable property not sufficient

property belonging to the judgment-debtor, the Court, on the application of the holder of such judgment, shall grant him a copy of the judgment and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any Court of Civil Judicature having general jurisdiction in the place in which the immovable property of the judgment-debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

Decision in suits tried under this Act to be final.

Ex parte decree may be set aside.

21. In suits tried under this Act, all decisions and orders of the Court shall be final: Provided that in any case in which a decree shall be passed *ex parte* against a defendant, he may within thirty days after any process for enforcing the decree has been executed give notice to the Court by which the decree was passed, of his intention to apply to the Court at its next sitting for an order to set it aside: and if, on the application being made to the Court at its next sitting, it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was heard, the Court shall pass an order setting aside the decree and shall appoint a day for proceeding with the suit, upon such terms as to costs or otherwise as shall to the Court seem proper: Provided also that it shall be competent to the Court, if it shall think fit, in any case not falling within the proviso last aforesaid, to grant a new trial, if notice of the intention to apply for the same at the next sitting of the Court be given to the Court within the period of seven days from the date of the decision, and if the same be applied for at the next sitting of the Court; but no such new trial shall be granted where the party applying for the same is the defendant or one of the defendants, unless he shall with his notice of application deposit in Court the amount for which a decree shall have been passed against him, including the costs (if any) of the opposite party.

New trial.

On deposit of debt and costs.

Power to refer questions of law, &c., to High Court.

22. If in the trial of any suit under this Act any question of law, or usage having the force of law, or any question as to the construction of a document which construction may affect the merits of the decision, shall arise, the Court, in suits

suits for an amount not exceeding five hundred Rupees, may, either of its own motion or on the application of any of the parties to the suit, and in suits for an amount greater than five hundred Rupees shall, draw up a statement of the case and refer it, with the Court's own opinion, for the decision of the High Court.

Power to pass decree contingent upon the opinion of the High Court.

23. The Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of the order of the High Court.

High Court to fix day for the hearing.

24. The High Court shall fix an early day for the hearing of the case, and shall cause notice of such day to be placed in the Court-house.

Parties may appear and be heard in person or by Pleader.

25. The parties to the case may appear and be heard in the High Court in person or by Pleader.

Decision of High Court to be transmitted.

26. The High Court, when it has heard and considered the case, shall send a copy of its judgment, under the seal of the Court, to the Court by which the reference was made; and such Court shall, on the receipt of the copy, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

27. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Power to High Court to alter or set aside order or decree made in the matter.

28. When a case is referred to the High Court under the twenty-second Section, the High Court may alter, cancel or set aside any order or decree which the Court stating the case may have made in the suit out of which the reference arose, and may make such order as the justice of the case may require.

29. Whenever

29. Whenever more Courts than one are constituted in any District under this Act, the Local Government may appoint one of the same Courts to be the Principal Court of Small Causes in such District.

Power to appoint one of the Courts of a District to be the Principal Court.

30. The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes in the same District, or with a person invested with the powers of a Judge as aforesaid in such Court, for the trial and determination of any suit cognizable under this Act, and shall so sit for the trial and determination of any such suit which the Judge of such other Court or other person as aforesaid may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

Judge of Principal Court may sit with Judge of any other Court in the District for the trial of reserved suits.

31. The Local Government may from time to time make Rules providing that in such cases as shall be prescribed in such Rules, two Judges or a Judge and a person invested with the powers of a Judge as aforesaid, shall sit together and hear and dispose of suits and applications.

Local Government may make Rules providing that two Judges shall sit together for trial of certain suits.

32. If two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, sit together and they concur in the decision or order to be passed, such decision or order shall be the decision or order of the Court: but if they shall differ on a point of law, or usage having the force of law, or in construing a document the construction of which may affect the merits of the decision, they shall submit a case for the opinion of the High Court on the point of difference between them, in the manner prescribed in the twenty-second Section of this Act; and the provisions applicable to a reference to the High Court, contained in the twenty-second, twenty-third, twenty-fourth, twenty-fifth and twenty-sixth Sections of this Act, shall be applicable to every reference made under this Section.

Procedure when two Judges differ on a point of law.

33. If two Judges differ on any matter other than the matters abovementioned, the Judge who is senior in respect of date of appointment as a Judge of a Court of Small Causes shall have the casting voice.

Casting voice in case of difference between two Judges on a question of fact.

34. If a Judge and a person invested with the powers of a Judge as aforesaid differ on any matter other than the matters abovementioned, the Judge shall have the casting voice.

Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

35. It shall be lawful for the Local Government to appoint to any Court of Small Causes an Officer who shall be called the Registrar of the Court, and who shall be paid such salary as shall from time to time be authorized in that behalf by the Governor-General of India in Council.

Appointment of Registrar.

36. The Registrar of every Court of Small Causes shall be the chief Ministerial Officer of the Court. In addition to any other duties and powers herein imposed or conferred upon the Registrar, he shall, subject to the provisions contained in the next following Section, receive all plaints presented to the Court; issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses. He shall likewise keep lists of all causes coming on for trial, and fix such days for their being heard respectively, as may seem to him fit. He may also receive notices under the twenty-first Section.

Duties of Registrar.

37. If, when the Judge is absent on duty and there is no person invested with the powers of a Judge as aforesaid, the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Sections twenty-seven to thirty-two, both inclusive, of the Code of Civil Procedure, he may reject the same. But it shall be lawful for the Judge or for any person invested with the powers of a Judge as aforesaid, to reject any plaint which may

Procedure where Registrar thinks plaint defective in certain particulars.

may have been received by the Registrar, and to receive any plaint which may have been rejected by him: Provided that such reception or rejection (as the case may be) by the Registrar shall, in the opinion of such Judge or other person empowered as aforesaid, have been erroneous, and that an application to set the same aside shall be made at the first subsequent sitting in the said Court of a Judge or other person duly empowered as aforesaid.

Proviso.

38. If a suit shall have been instituted in a Court of Small Causes, and the defendant shall have been duly summoned to appear and answer therein, and if before the day appointed for the hearing of such suit, the defendant or his agent duly authorized in that behalf shall appear before the Registrar of the Court, and admit the plaintiff's claim and apply for leave to confess judgment, it shall be lawful for the Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, to enter on the record a decree for the plaintiff by confession, and such decree shall have the like force and effect as a decree for the plaintiff would have had if the suit had been heard by the Judge and a decree passed by him for the plaintiff: Provided that in every case, before passing a decree under this Section, it shall be the duty of the Registrar fully to satisfy himself of the service of the summons, of the identity of the parties, and of their good faith in appearing before him.

Registrar may receive and enter up judgments by confession.

Proviso.

39. The Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, shall also receive applications for the execution of decrees passed by the Judge, or other person empowered as aforesaid, of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Judge or such other person, shall execute such decrees in the same manner as the Judge might execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Judge or other person empowered as aforesaid may, within three calendar months from the making of the order, of his own motion reverse or modify it.

Execution of decrees by Registrar.

40. The

40. The Local Government may invest any Registrar with the powers of a Judge of a Court of Small Causes in suits arising within the local limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed twenty Rupees. The Registrar shall exercise such powers subject to the general control of the Judge, or, when there is no Judge, of any person invested with the powers of a Judge as aforesaid.

Power to invest Registrar with jurisdiction of Small Cause Court Judge in certain cases.

41. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits and execute the decrees made therein, in such manner in all respects as the Judge of the Court might hear, determine and execute the same respectively : Provided that the Judge, or, when there is no Judge, the person invested with the powers of a Judge, whenever he thinks proper, may transfer to his own file any suit on the file of the Registrar, and may hear and determine the same.

Hearing of suits cognizable by Registrar.

Transfer from Registrar's to Judge's file.

42. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him ; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or as to the construction of a document which construction may affect the merits of the decision, he shall be at liberty to state a case for the opinion of the Judge, or, when there is no Judge, of the person invested with the powers of a Judge as aforesaid, in like manner as the Judge may, under the twenty-second Section of this Act, state a case for the opinion of the High Court ; and all the provisions herein contained, relative to the stating of a case by the Judge, shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

No appeal from decision of Registrar under last Section ; but in cases of doubt, he may submit statement for opinion of Judge.

Provisions applicable to such reference.

43. A decree passed by a Registrar under the thirty-eighth Section may be set aside by the Judge of the Court, or, when there is no Judge, by the person invested with the powers of a Judge as aforesaid, in such manner and on such grounds only

Setting aside decree by a Registrar under Section 38.

only as it might be set aside if it were a decree passed at the hearing cause by the Judge or other person empowered as aforesaid.

Appointment and removal of Clerk of the Court.

44. An Officer to be styled the Clerk of the Court may be appointed to any Court of Small Causes on such salary as shall be authorized by the Governor-General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority. The Registrar of any Court of Small Causes may also be the Clerk of the Court.

Duties of Clerk.

45. When a Clerk is appointed to any Court of Small Causes, such Clerk shall, subject to the orders of the Court and of the Registrar if there be a Registrar, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all monies payable or paid into or out of Court, and shall enter an account of all such monies in a book belonging to the Court to be kept by such Clerk for that purpose.

High Court empowered to make rules of practice, &c.

46. The High Court shall have power to make and issue general Rules for regulating the practice and proceedings of Courts of Small Causes, and also to prescribe forms for every proceeding in the said Courts for which it shall think that forms should be provided, and for keeping all books, entries and accounts to be kept by the Officers, and from time to time to alter any such Rule or form; provided that such Rules and forms be not inconsistent with the provisions of this Act or of any other law for the time being in force.

Provisions of Section 26 of Act X of 1862, and of Act VIII of 1859, made applicable to cases cognizable under this Act.

47. The twenty-sixth Section of Act X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*), and, except as hereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under this Act.

48. Nothing

Saving of Act XI of 1841, Section 17.

48. Nothing in the second Section of the said Act No. III of 1859, or the sixth, seventh and eighth Sections of Act No. XXII of 1864 (*to make provision for the Administration of Military Cantonments*), relating to the establishment of Courts of Small Causes in Military Cantonments, shall be held to affect so much of Act No. XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and soldiers in the service of the East India Company*) as declares that in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand.

Saving of jurisdiction of Courts of Requests.

49. Nothing in this Act, nor in the sixth, seventh and eighth Sections of the said Act XXII of 1864, shall be held to affect the jurisdiction of any Court of Requests convened under the hundred and third Section of the Statute 27 Vic., cap. 3, or the corresponding Section in any other Statute for the time being in force, for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer under any such Statute to assemble such Courts.

Reference in previous Acts to Act XLII of 1860 to be read as applying to this Act.

50. When in any Act passed prior to the coming into operation of this Act reference is made to Act XLII of 1860, such reference shall be read as applying to this Act, and when any procedure is directed to be in accordance with the provisions of Act XLII of 1860, such procedure shall be deemed to be directed to be in accordance with the provisions of this Act.

Power to give a Small Cause Court Judge the powers of a Principal Sudder Ameen or a Magistrate.

51. Whenever the state of business in any Court of Small Causes, the Judge of which shall be the Judge of such Court only, is not sufficient to occupy his time fully, the Local Government may invest him within such limits as it shall from time to time appoint, in addition to his powers as such Judge, with the powers of a Magistrate as defined in the Code of Criminal Procedure, or, in the Regulation Provinces, with the powers of a Principal Sudder

Sudder Ameen, or, in the Non-Regulation Provinces, with the powers of an Officer exercising the like or nearly the like powers as those of a Principal Sudder Ameen.

Power to give Small Cause Court Judge jurisdiction to hear claims under Act X of 1859.

52. In the places in which the provisions of Act X of 1859 (*to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal*) are in force, the Local Government may empower any Judge of a Court of Small Causes to hear and determine, under the rules contained in the said Act X of 1859 applicable to trials before a Collector, and subject to the same regular and special appeal, the claims cognizable under such Act arising within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X of 1859 except the power of hearing appeals.

Small Cause Courts to furnish records, &c., called for by Local Government or High Court.

53. Courts of Small Causes shall comply with such requisitions as may from time to time be made by the Local Government or the High Court for records, returns and statements in such form and manner as such Government or Court may deem proper.

ACT No. XII of 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 15th March 1865).

An Act to amend the Law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.

Preamble.

WHEREAS it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal, persons should, for the purpose of being received and detained in prison, be committed to the custody of an Officer appointed by the Government of Bengal, instead of to the custody of the Sheriff of Calcutta; It is enacted as follows :—

1. In this Act:—

"High Court."

"High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal.

Magistrate."

"Magistrate" includes a Magistrate of Police appointed under Act XIII of 1856 (*for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca*).

Enactments repealed.

2. The forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first and fifty-second Sections of Act XVIII of 1862 *(to repeal Act XVI of* 1852 *in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof, with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature)*, and Act XXV of 1863 *(to empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta, and to authorize the transfer of prisoners in certain cases from the House of Correction to the Great Jail and from the Great Jail to the House of Correction)* are hereby repealed.

3. After

PRICE TWO ANNAS.

After commencement of Act no one to be committed to Sheriff;

And writs not to be issued to Sheriff.

3. After the commencement of this Act, no person shall be committed to the Sheriff of Calcutta to be received and detained in prison; and no writ shall be awarded to the said Sheriff commanding him to arrest and seize the body of any offender.

Government of Bengal may appoint Superintendent of Presidency Jail.

4. It shall be lawful for the Government of Bengal to appoint an Officer who shall be called the Superintendent of the Presidency Jail, and who shall have authority to receive and keep prisoners committed to his custody under the provisions of this Act.

Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent of the Presidency Jail.

5. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment or to death, the Court shall cause such person to be delivered to the Superintendent of the Presidency Jail, together with the warrant of the said Court, and such warrant shall be executed by the said Superintendent and returned by him to the High Court when executed.

Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.

6. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, the Court shall cause such person to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

Persons sentenced by Magistrate to imprisonment or imprisoned for non-payment of fine to be delivered to Superintendent with a warrant.

7. Whenever any person shall be sentenced by a Magistrate of Police for the Town of Calcutta to imprisonment, and whenever any person shall be imprisoned for default of payment of any fine imposed by any such Magistrate, the Magistrate shall cause such person to be delivered to the said Superintendent together with a warrant of the Court.

Superintendent to detain such persons according to exigency of warrant, and to return same when executed.

8. The said Superintendent shall detain the person so delivered to him according to the exigency of such warrant, and shall return such warrant when executed to the Court whence it issued.

Persons committed by Justice for trial by High Court to be delivered to Superintendent with warrant.

9. Persons committed by a Justice of the Peace or Magistrate for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the said Superintendent together with a warrant of commitment, directing him to have the bodies of such persons before the Court for trial at the Sessions of the Court next ensuing after the date of such commitment.

10. Every

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

10. Every person arrested in pursuance of a warrant or order of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta under Act IX of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay)*, shall be delivered by the proper Officer of the Court executing such warrant, together with a copy of such warrant, to the said Superintendent; and the Officer executing such warrant shall thenceforward be absolved from responsibility for the custody of the person so delivered.

Superintendent to detain such persons according to exigency of warrant.

11. The said Superintendent shall detain the person delivered to him by the Officer of the Court in manner aforesaid, according to the exigency of the warrant, and return the same to the said Officer of the Court as soon as the terms of the said warrant shall have been complied with.

Persons confined in House of Correction or Great Jail of Calcutta shall be deemed to be in custody of Superintendent.

12. From and after the commencement of this Act, all persons confined in the Great Jail of Calcutta, under process or sentence of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or of the High Court, or of any Police Magistrate, shall be considered to be and shall remain in the custody of the said Superintendent according to the terms of the warrants under which they shall have been respectively committed to custody.

Warrant under Regulation III, 1818, Bengal Code, may be directed to Superintendent.

13. Any warrant of commitment under Regulation III, 1818, of the Bengal Code (*for the confinement of State Prisoners*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff under Act XXXIV of 1850 (*for the better custody of State Prisoners*) and Act III of 1858 (*to amend the Law relating to the arrest and detention of State Prisoners*).

Provisions of Statute 11 Vict., cap. 21, as to prisoners, to extend to persons in custody of Superintendent.

14. The provisions contained in the Statute 11 Vict., cap. 21 (*to consolidate and amend the laws relating to Insolvent Debtors in India*), relating to persons in prison or liable to be arrested, or detained in or remanded or recommitted to, or entitled to be discharged from, prison within the limits of the town of Calcutta, shall apply to all persons in the custody of the said Superintendent, or liable to be delivered to or entitled to be discharged from his custody.

Commencement of Act.

15. This Act shall come into operation on the first day of April 1865.

16. The

Act may be extended to Madras and Bombay.

16. The provisions of this Act may be extended to the local jurisdictions of Her Majesty's High Courts of Judicature at Madras and Bombay respectively by notification in the Gazette of India: such provisions when so extended shall, *mutatis mutandis*, relate to the custody of prisoners in such jurisdictions; and Regulation II of 1819 of the Madras Code (*for the confinement of State Prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State Prisoners and for the attachment of the lands of Chieftains and others, for reasons of State*), shall respectively be read for the said Regulation III of 1818 of the Bengal Code, and so much of the Regulations or Acts for the time being in force in such jurisdictions respectively as is in any way inconsistent with or repugnant to any of the provisions of this Act shall thenceforward cease to have effect in such jurisdictions.

Military Orphan Press.

ACT No. XIII of 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the* 21*st March* 1865).

An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original Criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.

Preamble.

WHEREAS it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, in the exercise of their original Criminal jurisdiction, and also to provide for the exercise by such Courts of original Criminal jurisdiction under the Commission of the Governor General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit; It is enacted as follows :—

Preliminary.

Short title.

1. This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

Interpretation clause.

2. In this Act, unless there be something repugnant in the subject or context—

"High Court."

"High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras, and at ymBboa, respectively.

"Chief Justice," "Judge," "Registrar," and other words denoting any particular Officer, respectively include any person for the time being authorized to act as such Chief Justice, Judge, Registrar, or other Officer.

"Chief Justice." "Judge," &c.

Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Magistrate."

"Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor General of India in Council or the Governor in Council of Madras or Bombay

'Clerk of the Crown."

PRICE FOUR ANNAS.

Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the forty-fourth Section of this Act.

"British India." "British India" denotes the Territories which are or may become vested in Her Majesty or her successors under the Statute 21 and 22 Vic., cap. 106, except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Gender and Number. Words importing the masculine gender include females: words in the singula number include the plural, and words in the plural number include the singular.

Of Charges where the Accused is committed in a Presidency Town.

Charge to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original Civil jurisdiction.

3. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which, according to law, may be dealt with as if it had been committed within the local limits of its ordinary original Civil jurisdiction, shall, together with all examinations, informations, bailments, and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Clerk of the Crown to consider and, if he will, to amend, alter, or add to the charge.

4. The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge, with such amendments, alterations, or additions (if any) gratis.

Charge with amendments, alterations or additions (if any) to be recorded.

5. The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Accused to have copies of examinations.

6. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

Effect of charge.

7. In

Provisions of Act XVIII of 1862 as to indictments to apply to charges preferred under this Act.

7. In Act XVIII of 1862 *(to repeal Act XVI of* 1852 *in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal justice in Her Majesty's Supreme Courts of Judicature)*, the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

Nolle prosequi on unsustainable charge.

8. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the person charged is arraigned appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate General, and shall have the effect of a *nolle prosequi* upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Of Grand Juries.

After commencement of this Act, Grand Jury not to be summoned.

9. From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries shall be liable, except as hereinafter provided, to serve on such Juries.

No one to be charged on the presentment or inquisition of Grand Jurors, unless they have been summoned before the commencement of this Act.

10. No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

Of Juries in Presidency Towns.

Certain trials to be held before Special Jurors.

11. Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

12. The

The Jurors' Book for the current year, to be taken as giving the first list of Jurors and Special Jurors.

12. The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons privileged and liable to serve only as Special Jurors under this Act: and a list of such last mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

The number of Special Jurors in the first list to be allowed to die down to two hundred.

13. The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

After which the number of Special Jurors not to exceed two hundred.

Special Jurors exempted from serving on Common Juries.

14. All persons whose names are entered in the "Special Jurors' List" shall be exempted from serving on any other than Special Juries.

Preparation of lists of Jurors and Special Jurors.

15. The Clerk of the Crown, or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall, before the fifteenth day of April which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subsequent fifteenth day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

16. The

16. The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

Officer preparing the lists to have full discretion: no appeal from his decision.

17. The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

Lists of Jurors to be published in the Gazette.

18. Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

Jurors and Special Jurors to be summoned for each Sessions.

Of Challenges of Jurors in the Presidency Towns.

19. A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array, and, save as aforesaid, the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

Challenges.

(1.) Some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the Juror.

(3.) A previous conviction of the Juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

20. The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge, the Juror shall be set aside.

Judge to try challenge.

21. Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empannelling, qualification, challenging, and service of Jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem

High Court to retain its present jurisdiction as to Jurors in Presidency Towns except as altered by this Act.

seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new rules made under this Section.

Of Sittings under a Commission.

Jurisdiction of Judge acting under Commission from Governor General of India in Council.

22. From and after the commencement of this Act, whenever it shall appear to the Governor General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor General of India in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of such High Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

23. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Madras in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

24. From

Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

24. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

High Court may allot jurisdiction to Judge acting under Commission.

25. The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference, which it is competent to exercise at its usual place of sitting, as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

Commission to specify time and place during and in which it shall remain in force.

26. Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which and the Districts or places within which such Commission shall remain in force; and such time and the limits of such Districts or places shall be notified in the Official Gazette.

Power to appoint an Associate Judge.

27. The Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may, by such Commission as aforesaid, associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing, or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

28. Any

28 Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits, shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents, the Clerk of the Crown shall proceed as directed in the like case in the fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the fifth Section, of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall obtain information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given, and the documents directed to be sent to the Clerk of the Crown shall be sent, to the Clerk of the Crown with the Judge of the High Court acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

Charge to be delivered with record of preliminary enquiry without the local limits of the ordinary original Civil jurisdiction.

29. The charge, whether it shall or shall not have been amended, altered or added to under the last preceding Section, shall, if the person charged be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge, but shall not operate as an acquittal of the person charged, unless

The charge shall be deemed a charge under the Criminal Procedure Code.

If unsustainable, the proceedings may be stayed.

unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge, whether amended, altered, or added to as last aforesaid or not, shall have the same effect as, and be deemed to be, a charge under the sixth, seventh, and eighth Sections of this Act.

Procedure pending directions of High Court.

30. Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the twenty-eighth Section of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which such person is directed to be tried; and the Officer in charge of such Criminal jail shall keep such person in safe custody until discharged in due course of law.

High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

31. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct, further, that the notice required by the twenty-eighth Section of this Act to be given, and the papers required by that Section to be sent, to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section of this Act.

32. When

Jurisdiction over European British subjects tried under Commission.

32. When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

Code of Criminal Procedure to apply to the trial of such subjects except as hereinafter declared.

Jurisdiction over persons not European British subjects tried under Commission.

33. The Judge of the High Court acting under such Commission in the place and manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power, and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned, as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

Trials under Commission to be by Jury.

34. All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

Summoning of Jurors to serve on trials under Commission.

35. Whenever the Governor General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention

to

to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service, resident within ten miles of its place of sitting, as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid, shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

36. If the person charged shall be a European British subject and shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

Jury for trial of European British subject.

37. On every trial mentioned in the thirty-fourth Section of this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Number of Jury requisite to verdict of guilty.

38. During the trial of any person before a Judge of the High Court acting under Commission as aforesaid, or before a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

Acts not of a judicial nature may be done by Clerk of the Crown.

39. So much

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court Judge.

39. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court Judge.

40. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

Power to reserve for High Court any question of law or evidence.

41. When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the District in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed by the Sudder Court under the Code of Criminal Procedure.

Procedure where no such question reserved.

42. Save

42. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

Save as aforesaid, Criminal Procedure Code to apply to Juries under Commission.

43. If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted before the Court of Session of the District in which the trial was held. Any person, other than a European British subject, who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

High Court Judge may direct Associate Judge to try any one triable under Commission, not an European British subject.

44. From and after the commencement of this Act, it shall be lawful for the Governor General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in the twenty-second, twenty-third, and twenty-fourth Sections of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

Power to Governor General of India in Council to appoint a Barrister to hold sittings under Commission at places not hereinbefore referred to.

45. This Act shall commence and come into operation on such date as the Governor General of India in Council shall appoint by notification in the Gazette of India.

Commencement of Act.

46. This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Act not to extend to Straits' Settlement.

Military Orphan Press.

ACT No. XIV of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 7th April* 1865).

An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.

Preamble.

WHEREAS it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces; It is enacted as follows:—

Short title.

1. This Act shall be called "The Central Provinces Courts' Act, 1865."

Interpretation clause.

2. In this Act—

"Assistant Commissioner."

"Assistant Commissioner" includes Extra Assistant Commissioner.

"District." "District Court." "Division." "Divisional Court."

3. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the Central Provinces.

4. There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely:—

(1). The Court of the Tahsildar of the second class.

(2). The Court of the Tahsildar of the first class.

(3). The Court of the Assistant Commissioner of the third class.

(4). The Court of the Assistant Commissioner of the second class.

(5). The Court of the Assistant Commissioner of the first class.

(6). The Court of the Deputy Commissioner.

(7). The Court of the Commissioner.

(8). The Court of the Judicial Commissioner.

5. Subject

Chief Commissioner may declare grade to which a Tahsildar or Assistant Commissioner belongs.

5. Subject to any orders that may from time to time be issued by the Local Government, the Chief Commissioner shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner shall belong.

Chief Commissioner may give Naib Tahsildars jurisdiction up to fifty rupees.

6. The Chief Commissioner may, with the sanction of the Local Government, invest any Naib Tahsildar with power to try and determine suits for money due, whether on bond or other contract, or for rent, or for personal property or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of fifty rupees, and to prescribe the local limits within which the Naib Tahsildar so invested shall exercise such power.

Jurisdiction of Court of Tahsildar of the second class.

7. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding one hundred rupees in value or amount.

Jurisdiction of Court of Tahsildar of the first class.

8. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding three hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the third class.

9. The Court of the Assistant Commissioner of the third class shall have power to try and determine suits of every description not exceeding five hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the second class.

10. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

11. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five thousand rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

12. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, third, and fourth grades, and of Naib Tahsildars invested as aforesaid.

Jurisdiction of Court of Commissioner.

13. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fifth and sixth grades.

14. The

Jurisdiction of Court of Judicial Commissioner.

14. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Time for presenting appeals.

15. The memorandum of appeal prepared in the form, and containing the particulars, mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within the said period; that is to say, thirty days if the appeal lie to the Deputy Commissioner; six weeks if the appeal lie to the Commissioner of a Division; and ninety days if the appeal lie to the Judicial Commissioner. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Applications for special appeal shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for appeals.

Local Government may invest any one with powers of Commissioner, or of Deputy Commissioner.

16. Whenever the state of the public business requires it, the Local Government shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Central Provinces.

Court in which suit shall be instituted.

17. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Appeal to lie from all decisions except when expressly prohibited.

18. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Deputy Commissioner may distribute business among subordinate Courts.

19. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

20. The

Transfer of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court.

20 The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

Judicial Commissioner may transfer suits from one subordinate Court to another.

21. The Judicial Commissioner may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to him, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value of the subject-matter of the suit or appeal to try the same.

Suits for immovable property situate in different Districts.

22. If the suit be for any immovable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and the Commissioner, after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immovable property situate in Districts subject to different Commissioners.

23. If the District Courts within the limits of whose jurisdiction the immovable property is situate are subordinate to different Commissioners, the application shall be submitted to the Commissioner of the Division to whom the District Court in which the suit is brought is subordinate, and the Commissioner to whom such application is made may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

Commencement of Act.

24. This Act shall commence and come into operation on the first day of May 1865.

Act may be extended to Oude.

25. The Governor-General of India in Council may, by an order to be published in the Official Gazette, extend the provisions of this Act to the Province of Oude, but not so as in any way to affect

affect the provisions of Act XVI of 1865 *(to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits).* On and after such extension, the Civil Judge of Lucknow shall be considered a Deputy Commissioner, and the Assistant Judge of Lucknow an Assistant of the third class, within the meaning of this Act. Appeals from the decisions and orders of the Civil Judge of Lucknow, when allowed by the Code of Civil Procedure or any other law, shall lie as at present to the Court of the Judicial Commissioner.

Military Orphan Press.

ACT No. XV of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 7th April 1865).

An Act to define and amend the law relating to Marriage and Divorce among the Parsees.

Preamble.

Whereas the Parsee community has represented the necessity of defining and amending the law relating to Marriage and Divorce among Parsees; And whereas it is expedient that such law should be made conformable to the customs of the said community; It is enacted as follows:—

I. *Preliminary.*

Short title.

1. This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."

Interpretation clause.

2. In this Act, unless there be something repugnant in the subject or context—

"Number."

Words in the singular number include the plural, and words in the plural number include the singular.

"Priest."

"Priest" means a Parsee Priest and includes Dastúr and Mobed.

"Marriage."

"Marriage" means a marriage between Parsees whether contracted before or after the commencement of this Act; and

"Husband" and "Wife."

"Husband" and "Wife" respectively mean a Parsee husband and a Parsee wife.

"Section."

"Section" means a Section of this Act.

"Chief Justice."

"Chief Justice" includes Senior Judge.

"Court."

"Court" means a Court constituted under this Act.

"British India."

"British India" means the Territories which are or shall be vested in Her Majesty or her successors by the Statute 21 & 22 Vic., cap. 106, entitled "An Act for the better Government of India."

And,

And, in any part of British India in which this Act operates, "Local Government" means the person authorized to administer Executive Government in such part of India, or the Chief Executive Officer of such part when it is under the immediate administration of the Governor-General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government; and "High Court" means the highest Civil Court of appeal in such part.

"Local Government."

"High Court."

II. *Of Marriages between Parsees.*

3. No marriage contracted after the commencement of this Act shall be valid, if the contracting parties are related to each other in any of the degrees of consanguinity or affinity prohibited among Parsees and set forth in a Table which the Governor-General of India in Council shall, after due enquiry, publish in the Gazette of India, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "Ásírvád" by a Parsee Priest in the presence of two Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee who shall not have completed the age of twenty-one years, the consent of his or her father or guardian shall have been previously given to such marriage.

Requisites to validity of Parsee marriages.

4. No Parsee shall, after the commencement of this Act, contract any marriage in the lifetime of his or her wife or husband, except after his or her lawful divorce from such wife or husband, by sentence of a Court as hereinafter provided; and every marriage contracted contrary to the provisions of this Section shall be void.

Remarriage save after divorce unlawful during lifetime of first wife or husband.

Every Parsee who shall, after the commencement of this Act and during the lifetime of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, shall be subject to the penalties provided in Sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife.

Punishment of bigamy.

6. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating Priest in the form contained in the Schedule to this Act. The certificate shall be signed by the said Priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said Priest shall thereupon send such certificate, together with a fee

Certificate and registry of marriages.

a fee of two rupees to be paid by the husband, to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

Appointment, of Registrar.

7. For the purposes of this Act a Registrar shall be appointed, who may be the Registrar appointed under Act XVI of 1864 *(to provide for the Registration of Assurances)*. Within the local limits of the ordinary original Civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and, without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.

Marriage register to be open for public inspection.

8. The register of marriages mentioned in the sixth Section shall, at all reasonable times, be open for inspection; and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

Penalty for solemnizing marriage contrary to Section 4.

9. Any Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the fourth Section shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for Priest's neglect of requirements of Section 6.

10. Any Priest neglecting to comply with any of the requisitions affecting him contained in the sixth Section shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for omitting to subscribe and attest the certificate.

11. Every other person required by the sixth Section to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred rupees.

Penalty for making, &c., false certificate.

12. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in Section four hundred and sixty-six of the said Code.

13. Any

13. Any Registrar failing to enter the said certificate pursuant to the sixth Section shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for failing to register certificate.

14. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a Registrar, for a term which may extend to five years, and shall also be liable to fine which may extend to five hundred rupees.

Penalty for secreting, destroying or altering the register.

III. *Of Parsee Matrimonial Courts.*

15. For the purposes of hearing suits under this Act, a special Court shall be constituted in each of the Presidency Towns of Calcutta, Madras and Bombay, and in such other places in the Territories of the several Local Governments as such Governments respectively shall think fit.

Constitution of special Courts under this Act.

16. The Court so constituted in each of the Presidency Towns shall be entitled the Parsee Chief Matrimonial Court of Calcutta, Madras or Bombay, as the case may be. The local limits of the jurisdiction of a Parsee Chief Matrimonial Court shall be conterminous with the local limits of the ordinary original Civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven Delegates.

Parsee Chief Matrimonial Courts.

17. Every Court so constituted at a place other than a Presidency Town shall be entitled the Parsee District Matrimonial Court of such place. Subject to the provisions contained in the next following Section, the local limits of the jurisdiction of such Court shall be conterminous with the limits of the District in which it is held. The Judge of the principal Court of original Civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven Delegates.

Parsee District Matrimonial Courts.

18. The Local Government may from time to time alter the local limits of the jurisdiction of any Parsee District Matrimonial Court, and may include within such limits any number of Districts under its government.

Power to alter territorial jurisdiction of District Courts.

19. Any

Certain Districts to be within the jurisdiction of the Chief Matrimonial Court.

19. Any District which the Local Government, on account of the fewness of the Parsee inhabitants, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsee Chief Matrimonial Court for the Territories under such Local Government where there is such Court.

Court Seal.

20. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court, shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Appointment of Delegates.

21. The Local Governments shall, in the Presidency Towns and Districts subject to their respective Governments, respectively appoint persons to be Delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsees: their names shall be published in the Official Gazette; and their number shall, within the local limits of the ordinary original Civil jurisdiction of a High Court, be not more than thirty, and in Districts beyond such limits not more than twenty.

Power to appoint new Delegates.

22. The appointment of a Delegate shall be for life. But whenever a Delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other law for the time being in force, then and so often the Local Government may appoint any other person being a Parsee to be a Delegate in his stead; and the name of the person so appointed shall be published in the Official Gazette.

Delegates to be deemed public servants.

23. All Delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

Selection of Delegates under Sections 16 and 17 to be from those appointed under Section 21.

24. The Delegates selected under the sixteenth and seventeenth Sections to aid in the adjudication of suits under this Act, shall be taken under the orders of the presiding Judge of the Court in due rotation from the Delegates appointed by the Local Government under the twenty-first Section.

Practitioners in Matrimonial Courts.

25. All Advocates, Vakeels, and Attorneys-at-law entitled to practise in a High Court shall be entitled to practise in any of the Courts constituted under this Act; and all Vakeels entitled to practise in a District Court shall be entitled to practise in any District Matrimonial Court constituted under this Act.

26. All

26. All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit. When the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

Court in which suits to be brought.

When defendant has left British India.

IV.—*Of Matrimonial Suits.*

(*a*). *For a decree of Nullity.*

27. If a Parsee at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may at the instance of his or her wife or husband be declared null and void upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues. Provided that no suit shall be brought under this Section if the plaintiff shall at the time of the marriage have known that the respondent was a lunatic or of habitually unsound mind.

In case of lunacy or mental unsoundness.

28. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

In case of non-consummation owing to physical causes.

(*b*). *For a Decree of Dissolution in Case of Absence.*

29. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

In case of absence for seven years.

(*c*). *For Divorce or Judicial Separation.*

30. Any husband may sue that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married or fornication with an unmarried woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery the plaintiff shall, unless the Court

On the ground of the wife's adultery.

On the ground of the husband's adultery, &c.

Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

Grounds of judicial separation.

31. If a husband treat his wife with such cruelty or personal violence as to render it in the judgment of the Court improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

Suits for divorce or judicial separation.

32. In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

Alimony *pendente lite.*

33. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum, not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

Permanent alimony.

34. The Court may, if it shall think fit, on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life, as, having regard to her own property (if any), her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

35. In

35. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

Payment of alimony to wife or to her trustee.

(d). For Restitution of Conjugal Rights.

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Suit for restitution of conjugal rights.

37. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

No suit to be brought to enforce marriage or contract arising out of marriage when husband under 16 years or wife under 14 years.

38. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

Suits may be heard with closed doors.

39. Every plaint and petition of appeal preferred under this Act shall bear a stamp of thirty-two Rupees, and all other instruments and writings of the kind specified as requiring a stamp in Schedule B to Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*) and exhibited in a suit under this Act shall be stamped in accordance with the provisions of the said Act No. X of 1862.

Stamps on plaints and petitions.

40. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

Provisions of Civil Procedure Code to apply in suits under this Act.

41. In

Determination of questions of law and procedure, and of fact.

41. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

Appeal to High Court.

42. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

Liberty to parties to marry again.

43. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

V.—*Of the Children of the Parties.*

Custody of children *pendente lite.*

44. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper, with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

Orders as to custody of children after final decree.

Settlement of wife's property for benefit of children.

45. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

VI.-*Of the*

VI.—*Of the Mode of enforcing Penalties under this Act.*

Cognizance of offences under this Act.

46. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences under this Act, committed within local limits of High Court.

47. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

Levy of fines by distress.

48. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's movable property by warrant under the hand of the Officer imposing the fine.

Procedure until return is made to distress warrant.

49. In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if no sufficient distress.

50. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient movable property whereupon such fine could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

VII.—*Miscellaneous.*

VII.—*Miscellaneous.*

Rules of procedure of Parsee Matrimonial Courts to be made by the High Court.

51. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations and alterations shall be published in the Official Gazette.

Power to invest Chief Executive Officer with powers of Local Government.

52. The Governor-General of India in Council may invest the Chief Executive Officer of any part of British India under the immediate administration of the Government of India with the powers vested by this Act in a Local Government.

Commencement and extent of Act.

53. This Act shall commence and take effect on the first day of September 1865, and shall extend to the whole of British India.

SCHEDULE (*See Section* 6.)

Date and Place of Marriage.	Names of the Husband and Wife.	Condition at the time of Marriage.	Rank or Profession.	Age.	Residence.	Names of the Fathers or Guardians.	Rank or Profession.	Signature of the Officiating Priest.	Signatures of the Witnesses.	Signature of father or guardian when husband or wife is an infant.

MILITARY ORPHAN PRESS.

ACT No. XVI of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 7th April* 1865.)

An Act to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits.

Preamble.

WHEREAS, before the introduction of the Code of Civil Procedure into the Province of Oude, the jurisdiction in suits relating to the title or succession to land in the said Province, or to the possession of land, or to any right in respect of any land, was vested exclusively in the Courts of Revenue and in the Financial Commissioner, and after that office became vacant, in the Chief Commissioner; And whereas since the introduction of the said Code doubts have arisen whether such suits are cognizable in the first instance by the ordinary Civil Courts and on appeal by the Judicial Commissioner, or in the first instance by the Revenue Courts, and on appeal by the Chief Commissioner or Financial Commissioner whose office has now been revived; And whereas it is expedient to remove such doubts and to enlarge the period of limitation within which certain classes of suits may be entertained under this Act; It is enacted as follows:—

Interpretation Clause.

1. In the construction of this Act, except where there is something repugnant in the subject or context—

Number.

Words in the singular number shall include the plural and words in the plural number shall include the singular.

"Courts of Revenue."

"Courts of Revenue" include Officers employed in making or revising Settlements.

"Land"

PRICE TWO ANNAS.

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

"Land."

2. In any District in the Province of Oude in which a Settlement of the Land Revenue is in progress, all suits of whatever description arising in such District relating solely to the title or succession to land, or to the possession of land, or to any right in respect of any land, shall, during the continuance of such Settlement, and for such further period thereafter as the Governor-General of India in Council, by notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decisions of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner: Provided that where in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor the Financial Commissioner shall have jurisdiction under this Section.

Suits and appeals relating to land during progress of Revenue Settlement to be cognizable by Courts of Revenue and Financial Commissioner.

3. The Financial Commissioner shall, with respect to suits cognizable by the Revenue Courts under the second Section of this Act, be deemed the highest Court of appeal in the Province of Oude within the meaning of the Code of Civil Procedure, and shall have and exercise in respect of such suits all the powers vested in the Sudder Court and shall be subject to all the rules prescribed with reference to the Sudder Court by such Code, subject to the restrictions, limitations and provisos with which the Code was extended to the said Province as contained in the declaration of the Governor-General in Council, bearing date the sixth August 1861. Subject to the same restrictions, limitations and provisos,

Powers of Financial Commissioner as highest Court of appeal.

provisos, the proceedings of the Courts of first appeal and the Courts of first instance shall be regulated by the Code of Civil Procedure.

Suits not to be instituted or tried by any other than the Court or authority before specified.

4. Subject to the proviso in the second Section of this Act, no suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land shall, during the period limited in the said Section, be instituted or tried in any Court, or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

Limitation rules not to apply to certain suits relating to under-tenures.

5. No suit relating to any under-tenure which shall be cognizable in any Revenue Court under this Act shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the thirteenth day of February 1844. Provided that this Section shall not apply to any suit by a person claiming only a right to cultivate as a tenant-at-will, or as a tenant with the right of occupancy, or as a tenant at fixed or favourable rates.

Certain suits relating to under-tenures dismissed on ground of limitation-bar may be revived.

6. Any suit or appeal relating to any under-tenure (not being a suit within the proviso contained in the last preceding Section), cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the law of limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section : Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within six calendar months from the date of the passing of this Act. The petition may be written on paper bearing the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court, as the case may be.

7. All

Procedure applicable to suits relating to land instituted after period mentioned in Section 2.

7. All suits relating to the proprietary right in, succession to or possession of, any land, or to any right in respect to any land, which shall be instituted after the expiration of the period appointed in the second Section of this Act, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

Saving of orders and decisions of Revenue Courts after the extension of Code of Civil Procedure to Oude.

8. No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province and before the passing of this Act, in any suit relating to the proprietary right in, succession to or possession of, any land, or to any right in respect of any land, in the said Province, shall be invalid by reason of anything contained in the said Code

Printed at the Bengal Printing Company's Press.

ACT No. XVII of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th April 1865).

An Act to amend certain Acts relating to the duties of Customs on goods imported and exported by Sea.

Preamble.

Whereas it is expedient to amend the Law relating to Customs duties; It is enacted as follows:—

Customs Duties to be levied as prescribed in the Schedules annexed to this Act.

1. In lieu of the Customs duties authorized to be charged in Act VII of 1859 *(to alter the duties of Customs on goods imported or exported by Sea)*, Act XXIII of 1859 *(to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively)*, Act X of 1860 *(to amend Act VII of* 1859 *to alter the duties of Customs on goods imported or exported by Sea)*, Act XI of 1862 *(to amend Act X of* 1860, *to amend Act VII of* 1859*)*, Act XXIII of 1862 *(to amend Act XI of* 1862*)*, and Act XXIII of 1864 *(to amend the law relating to the Customs duties on goods imported by Sea)*, there shall be levied and collected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI of 1848 *(for equalizing the duties on goods imported and exported on Foreign and British bottoms, and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company)*, or to affect the provisions of the Consolidated Customs' Act.

Operation of Act.

2. So far as regards the Customs duty on the export of Saltpetre, this Act shall take effect as if it had been passed and had received the assent of the Governor-General on the ninth day of March 1865; but save as aforesaid, this Act shall take effect from the first day of April 1865.

Short title.

3. This Act shall be cited as "The Indian Customs Duties' Act of 1865."

SCHEDULE A.

PRICE ONE ANNA.

ACT No. XVII of 1865.

SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any Port in British India, not being a Free Port.

1.	Bullion and Coin	Free.
2.	Precious Stones and Pearls	"
3.	Grain and Pulse	"
4.	Horses and other living Animals	"
5.	Ice	"
6.	Coal, Coke, Bricks, Chalk, and Stones	"
7.	Cotton Wool	"
8.	Wool	"
9.	Flax	"
10.	Hemp	"
11.	Jute	"
12.	Hides and Skins, raw	"
13.	Books	"
14.	Paper	"
15.	Maps, Prints, Music, and Works of Art	"
16.	Seeds when imported by any Public Society for gratuitous distribution	"
17.	Agricultural Implements	"
18.	Firewood	"
19.	Machinery used exclusively for purposes of Agriculture, Navigation, Mining, or Manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery	"

And the Officer in charge of the Custom House, subject to the orders of the Local Government acting under the general instructions of the Government of India, shall decide what articles come within the definition of such machinery, or materials forming component parts thereof, and such decision shall be final in law.

20.	Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service	"
21.	Guano and manures of all kinds	"
22.	Bottles	"
23.	Wines and Liqueurs	One Rupee the imperial gallon.
24.	Porter, Ale, Beer, Cider, and other similar fermented Liquors	One anna the imperial gallon.
25.	Spirits	Three Rupees the imperial gallon, and the duty to be rateably increased as the strength exceeds London Proof.

Provided that ten per cent. *ad valorem* shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such rules as the Local Governments shall from time to time prescribe, for ascertaining that such spirits are unfit

are unfit for use as a beverage, and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.

26.	Iron (which shall not be taken to include ironmongery, cutlery, or hardware) - -	One per cent. *ad valorem.*
27.	Hops - - -	One per cent. *ad valorem.*
28.	Tobacco, whether manufactured or not manufactured -	Ten per cent. *ad valorem.*
29.	Piece Goods - - -	Five per cent. *ad valorem.*
30.	Twist - - -	Three and a half per cent. *ad valorem.*
31.	All other articles not included in the above enumeration - -	Seven and a half per cent. *ad valorem.*

SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea to any Foreign Port as defined in The Consolidated Customs' Act, from any Port in British India.

1.	Bullion and Coin - - - - - -		Free.
2.	Precious Stones and Pearls - - - - -		,,
3.	Horses and other living Animals - - - - -		,,
4.	Rum - - - - - - -		,,
5.	Spirits - - - - - - -		,,
6.	Tobacco, and all preparations thereof - - - - -		,,
7.	Cotton Wool - - - - - - -		,,
8.	Flax - - - - - - -		,,
9.	Hemp - - - - - - -		,,
10.	Books - - - - - - -		,,
11.	Maps, Prints, and Works of Art - - - - -		,,
12.	Teak Timber - - - - - - -		,,
13.	Coal - - - - - - -		,,
14.	Iron - - - - - - -		,,
15	Grain and Pulse of all sorts -	Three annas the Indian maund	Of forty seers of eighty tolahs to the seer.
16.	Saltpetre - -	One Rupee the Indian maund	
17.	Indigo - -	Three Rupees the Indian maund	
18.	Lac Dye and Shell Lac -	Four per cent. *ad valorem.*	
19.	Hides and Skins, raw -	Two per cent. *ad valorem.*	
20.	Sugar - -	Two per cent. *ad valorem.*	
21.	Raw Silk and Silk Chussum	Two per cent. *ad valorem.*	
22.	All country articles not enumerated or named above	Three per cent. *ad valorem.*	

Military Orphan Press.

LIBRARY

ACT No. XVIII OF 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 10th April* 1865).

An Act to amend Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*).

Preamble.

WHEREAS it is expedient to amend Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*); It is enacted as follows :—

Act X of 1862, Section 33, repealed.

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof:—

Governor-General in Council may lower rates of Stamp Duty on any Deeds, &c., mentioned in the Schedule, or on any class of such Deeds, &c.

2 The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, reduce or remit in the whole or any part of the Territories to which the said Act X of 1862 applies, the Stamp Duties prescribed by the said Act and chargeable on all or any of the Deeds, Instruments, and Writings mentioned in the Schedules thereto, or on any particular class of such Deeds, Instruments, and Writings, or on any of the Deeds, Instruments, and Writings, belonging to such class ; or on any of the Deeds, Instruments, and Writings, as afore said, when executed or granted by or to any particular class of persons or by or to any members of such class, and may in like manner cancel or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be published in the Official Gazette.

Addition to Act X of 1862, Schedule B, Article 11.

3. Article 11 of Schedule B to Act X of 1862, shall be read as if after the words and figures "Act III of 1859," the following words were inserted, that is to say, "or in Courts of Small Causes established under Section 6 of Act XXII of 1864 (*to make provision for the administration of Military Cantonments.*)

This Act to be taken as part of Act X of 1862.

4. This Act shall be read with and taken as part of the said Act No. X of 1862.

PRICE ONE ANNA.

Printed at the Bengal Printing Company's Press.

ACT No. XIX of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 10*th April* 1865).

An Act to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.

Preamble.

WHEREAS it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; It is enacted as follows:—

Short title.

1. This Act shall be called "The Punjab Courts Act, 1865."

Interpretation clause.

2. In this Act—

"Assistant Commissioner."

"Assistant Commissioner" includes "Extra Assistant Commissioner."

"Land."

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

"District."
"District Court."
"Division."
"Divisional Court."

3. For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the Punjab.

4. There shall be seven grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, unless otherwise provided in such Act, namely:—

(1.)—The Court of the Tahsildar.
(2.)—The Court of the Assistant Commissioner with ordinary powers.
(3.)—The Court of the Assistant Commissioner with special powers.
(4.)—The Court of the Assistant Commissioner with full powers.
(5.)—The Court of the Deputy Commissioner.
(6.)—The Court of the Commissioner.
(7.)—The Court of the Judicial Commissioner.

5. The

Jurisdiction of Tahsildar.

5 The Local Government may invest any Tahsildar with power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

Local Government may in special cases give Naib Tahsildars powers of Tahsildar.

6. The Local Government shall also have power, from time to time, specially to invest any Naib Tahsildar with the powers of a Tahsildar as aforesaid within such limits as it may think proper, and to withdraw such powers.

Jurisdiction of Assistant Commissioner with ordinary powers.

7. The Assistant Commissioner with ordinary powers shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

Jurisdiction of Assistant Commissioner with special powers.

8. The Assistant Commissioner with special powers shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

Criminal powers to be exercised by Courts of the 1st, 2nd, and 3rd grades.

9. The Criminal powers to be exercised by the Courts of the said first, second, and third grades respectively, shall be those with which the several Officers presiding in those Courts shall from time to time be invested by the Local Government under Section 23 of the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with full powers.

10. The Assistant Commissioner with full powers shall, on the Civil side, have power to try and determine suits of every description under ten thousand Rupees in value or amount, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

Jurisdiction of Deputy Commissioner.

11. The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the first three grades of Courts mentioned in the fourth Section of this Act, and, on the Criminal side, to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure, and to hear appeals according to the provisions of the same Code relating to the hearing of appeals by Magistrates from the sentences and orders of Courts subordinate to the Magistrate of the District. The Deputy Commissioner may also be invested by the Local Government with the powers described in Act No. XV of 1862 *(to amend the Code of Criminal Procedure)*.

Jurisdiction of Commissioner.

12. The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders

orders of the Courts of the said fourth and fifth grades, and, on the Criminal side, to exercise the powers of a Sessions Judge as defined in the Code of Criminal Procedure, and to hear appeals from the subordinate Courts according to the provisions of the same Code relating to the hearing of appeals by the Sessions Court.

Court in which suit shall be instituted.

13. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Distribution of business in Courts subordinate to Deputy Commissioner.

14. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit the value or amount of which shall exceed its proper jurisdiction.

Power of Commissioner or Deputy Commissioner to withdraw suits from subordinate Courts.

15. The Commissioner or Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him and try such suit himself, or refer it for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same. The Commissioner may also withdraw any appeal from the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

Power of Judicial Commissioner to transfer suits.

16. The Judicial Commissioner may withdraw any suit or appeal from any Court subordinate to him other than Courts of Small Causes or Courts of Cantonment Magistrates, and refer such suit or appeal for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same.

Suits for immovable property situate within different jurisdictions of single District.

17. If the suit be for immovable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.

Suits for immovable property situated in different Districts.

18. If the suit be for immovable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of such property is situate; but in such case

case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same ; and such Commissioner, after hearing the objections, if any, of the defendant, may grant authority accordingly. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immovable property situate in Districts subject to different Commissioners.

19. If the Districts within the limits of which the immovable property is situate are subordinate to different Commissioners, the application mentioned in the last preceding Section shall be submitted to the Commissioner in whose Division the District in which the suit is brought is situate, and such Commissioner, after hearing the objections, if any, of the defendant, may give authority to proceed with the suit.

Local Government may invest additional Officers with powers of Commissioner, and Small Cause Court Judges with powers of Assistant Commissioner.

20. Whenever the number of cases depending in any District or Divisional Court shall be so great as to prevent their being disposed of within a reasonable period, the Local Government may, with the previous sanction of the Governor-General of India in Council, invest any Officer with the Civil and Criminal powers of a Deputy Commissioner or Commissioner, as defined in this Act, in such District or Division as the case may be.

Local Government may invest special Officers with Civil powers of Commissioners, &c., in Districts in course of settlement.

21. In any District in which a Settlement of Land Revenue is in progress, the Local Government may, on its own authority, empower and direct the Tahsildars, Assistant Commissioners, Deputy Commissioner, and Commissioner in such District, to exercise their respective powers as defined in this Act in suits regarding land, or the rent, revenue, or produce of land, on the Revenue and not on the Civil side of their Courts. The Local Government may also, with the previous sanction of the Governor-General of India in Council, invest any special Officer in such District with the Civil powers of a Commissioner, Deputy Commissioner, Assistant Commissioner, or Tahsildar, as defined in this Act, for the purpose of deciding suits in respect to land, or the rent, revenue, or produce of land; such powers to be exercised on the Revenue side: Provided that in all such suits as aforesaid no deviation shall be allowed from the Rules of Civil Procedure in force, and that the powers given under this Section shall continue only so long as Settlement operations are in progress in the District, and shall cease on the termination thereof.

Local Government may invest Financial Commissioner with powers of Chief Court for certain purposes.

22. In any District in which a Settlement of Land Revenue is in progress, the Local Government may invest the Financial Commissioner with the powers of the Judicial Commissioner for the purpose of trying special appeals from Commissioners and Deputy Commissioners in all decisions passed by them in regular appeal under

under the twenty-first Section of this Act, and with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land:

Proviso.

Provided that in the trial of such appeals no deviation shall be allowed from the Rules of Civil Procedure in force, and that the power given under this Section shall continue only so long as Settlement operations shall be in progress, and shall cease on the termination thereof. So long as the Financial Commissioner may be invested with powers as aforesaid, the jurisdiction of the Judicial Commissioner in respect to the appeals hereby made cognizable by the Financial Commissioner shall be suspended.

Exclusion of jurisdiction, under Sections 21 and 22, of Revenue Courts and Financial Commissioner.

23. Whenever in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor Financial Commissioner shall have jurisdiction under the twenty-first or the twenty-second Section of this Act.

Saving of decisions and orders passed before passing of this Act.

24. No decision or order passed by any Officer in the Punjab and its Dependencies prior to the passing of this Act, shall be invalid solely on the ground of a doubt existing as to the authority of the Officer who passed the decision or order.

Commencement of Act.

25. This Act shall commence and come into operation on the first day of May 1865.

Military Orphan Press.

ACT No. XX of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th April 1865).

An Act to Amend the law relating to Pleaders and Mookhtars.

Preamble.

WHEREAS it is expedient to amend the law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension and dismissal of Revenue Agents; It is enacted as follows:—

Preliminary.

Short title.

1. This Act may be cited as "The Pleaders, Mookhtars and Revenue Agents' Act, 1865."

Interpretation of terms.

2. In this Act, unless there be something repugnant or inconsistent in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section."

"Section" means a Section of this Act.

"Person."

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader."

"Pleader" includes Vakeels.

"Collector."

"Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate."

"Magistrate."

"Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge."

"Judge" means the presiding Judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court."

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District."
"District Court."

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner or any other Court in the Territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

"Local Government."
"High Court."
"Board of Revenue."

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the executive Government in such part: "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief Revenue Authority therein.

Laws repealed.

3. So far as they affect the Territories to which this Act extends, the enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

Of Pleaders and Mookhtars.

High Court to make rules for qualification, &c., of Pleaders and Mookhtars.

4. The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the

the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also from time to time vary and add to such rules.

No person to practise as a Pleader or as a Mookhtar unless qualified under this Act.

5. Except as hereinafter provided, no person shall appear, plead or act as a Pleader, or appear or act as a Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act as, a Pleader in any Court in such part, by virtue of any law, rule or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

Saving of Pleaders already qualified.

Local Government to appoint Examiners.

6. To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Names of Pleaders and Mookhtars to be enrolled.

7. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

Certificates to be issued to Pleaders and Mookhtars.

8. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate, when renewed as provided in the ninth Section, may be issued and signed by the Officer so appointed or by the Judge of the

the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

Form and duration of certificate.

9. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

Value of stamp on certificate

10. The stamp on the certificate, whether original or renewed, shall be of the following value :—

On a certificate authorizing the holder to practise as a Pleader—

(*a.*) In the High Court and any subordinate Court—Rupees fifty ·

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees twenty-five :

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees fifteen :

(*d.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees five.

On a certificate authorizing the holder to practise as a Mookhtar—

(*e.*) In the High Court and any subordinate Court—Rupees twenty-five :

(*f.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees sixteen :

(*g.*) In the Courts of the Commissioners of Circuit, Magistrates and subordinate Magistrates : in Sudder Ameens' and Moonsiffs' Courts, and in

in the Courts of Assistant Commissioners, Extra Assistant Commissioners and Talisildars—Rupees eight:

(*h.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees four.

Pleaders may practise in Criminal Courts and Revenue Offices

Mookhtars may plead in Criminal Courts.

11. Pleaders duly admitted and enrolled under this Act may appear, plead and act in any Criminal Court, or before any Board of Revenue or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled as aforesaid may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear and act in any Civil Court, and may appear, plead and act in any Criminal Court within the same limits.

Persons admitted in one Court admissible to practise in other Courts of same or subordinate jurisdiction.

12. Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Provided that neither this Section nor the last preceding Section shall apply to any Court established by Royal Charter.

Uncertificated persons practising as Pleaders or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees

13. Except as hereinafter provided, any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office to which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit

suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

14. The High Court may suspend or dismiss any Pleader or Mookhtar enrolled under this Act in such Court, who shall be convicted of any criminal offence.

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

15. The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid, who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when charge of unprofessional conduct is brought in a subordinate Court.

16. If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed; and on such day or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report, when made by any Officer other than the District Judge, shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation

Suspension pending investigation.

investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

High Court may call for the record in case of acquittal under Section 16.

17. The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

Dismissed Pleader or Mookhtar to surrender his certificate.

18. When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed, or to any Court to which he shall be ordered by the High Court to deliver the same. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding three calendar months. If during such suspension or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding six calendar months.

Of Agents practising in the Revenue Offices.

No person to act as Agent in Revenue Offices or Magistrates' Courts, unless qualified as herein provided.

19. No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

20. The

20. The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

Names of Revenue Agents to be enrolled.

21. Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

Form of certificate.

22. The stamp on such certificate, whether original or renewed, shall be of the following value :—

Value of stamp.

On a certificate authorizing the holder to practise as a Revenue Agent—

In the Board of Revenue or in any Office subordinate to the Board—Rupees fifteen :

In the Office of a Commissioner or in any Office subordinate to a Commissioner—Rupees ten :

In the Office of a Collector or in any Office subordinate to a Collector—Rupees five.

23. The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same ; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

Revenue Board to ascertain qualifications of Revenue Agents.

24. To

24. To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid and make regulations for conducting the examinations.

Local Government to appoint Examiners.

25. Every person who shall have been admitted to practise as a Revenue Agent under this Act, may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him and subject to the conditions as aforesaid, to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory under the Board of Revenue in which he is enrolled.

Enrolment of Revenue Agent in Office in which he shall usually practise.

26. The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office, who shall be convicted of any criminal offence.

Board of Revenue may suspend or dismiss Revenue Agent convicted of criminal offence.

27. The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

28. If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such practise, the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

Procedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

29. If

29. If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged at least ten days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to Board of Revenue.

30. The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

Power to Board to call for record.

31. Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any

Report to High Court when dismissed Revenue Agent is also an enrolled Mookhtar.

any enquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29 or 31.

32. The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth or thirty-first Section.

Dismissed Revenue Agent to surrender his certificate.

33. When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding three calendar months.

Penalty on unqualified person practising as Agent.

34. Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act extends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding Rupees two hundred, and, in default of payment, to imprisonment in the Civil jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him in the course of such practising.

Persons authorized by general or special powers of attorney may be Agents.

35. Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or a special power of attorney, as the case may be, in that behalf, from

from the person so employing him: Provided also that no person shall act as last aforesaid, unless he shall have received the general or the special sanction, as the case may be, in that behalf, of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

Sanction required.

36. Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

Sanction may be revoked or suspended.

Of the Remuneration of Pleaders and Revenue Agents.

37. The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

38. The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

Section 37 not to apply to Agents appointed under Section 35.

39. Parties employing Pleaders, Mookhtars or Revenue Agents, in any Court or Office, shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

Clients may make private agreements with their Pleaders, Mookhtars or Revenue Agents, as to remuneration.

Miscellaneous.

Miscellaneous.

Suitors may appear, &c., for co-suitors.

Prosecutors or prisoners may employ any assistant.

Fees not recoverable by such persons.

40. Any suitor may appear, plead and act in any suit, appeal or other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

Rules to be published in the Gazette.

41. The rules mentioned in the fourth and twenty-third Sections and all variations of and additions to such rules, shall be published in three consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to and approved by the Local Government.

Fines subject to revision.

42. Every order for imposing a fine which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

Pleaders in subordinate Courts may apply to District Judge for enrolment.

43. Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act, may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court, shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in the eighth, ninth and tenth Sections. Applications for enrolment under this Section, when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

44. With

Act not to apply to Advocates, &c., admitted and enrolled by any High Court under Letters Patent

44. With the exception of Section thirty-nine this Act shall not apply to Advocates, Vakeels and Attorneys-at-law, admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, nor to Mookhtars practising in such Court: Provided that the High Court shall have power to make rules for the qualification, admission, enrolment, suspension and dismissal of the Mookhtars practising on the appellate side of such Court and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties. Provided also that the High Court may from time to time fix and regulate the fees which shall be payable on all proceedings on the appellate side of such Court by any party in respect of the fees of his adversary's Vakeel. The rules, penalties and fees so made, prescribed and fixed and every variation thereof shall be published in three consecutive numbers of the Official Gazette.

Advocates and Vakeels enrolled in a High Court may practise in any Court other than a High Court in which they are not enrolled.

45. Every person now or hereafter enrolled as an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office, subject nevertheless to the rules in force relating to the language in which the Court or Office is to be addressed by Pleaders or Revenue Agents. Provided that no such Vakeel shall be entitled to practise under this Section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction.

Attorney of a High Court may plead in any Court not a High Court.

46. Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

Commencement and extent of Act.

47. This Act shall take effect in the Territories under the Governments of the Lieutenant-Governors of Bengal and the North-Western Provinces, respectively, on the first day of

of January 1866, and may be extended by order of any other Local Government to the Territories subject to such Government. Every such order shall be published in the Official Gazette.

Repeal of inconsistent enactments in Madras, Bombay, the Punjab, &c

48. From the date on which this Act shall be extended by the Local Government under the provision contained in the last preceding Section to the Territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such Territories except as to the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

ACT No. XX OF 1865.

FIRST SCHEDULE.

Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the Territories to which this Act extends.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XXVII, 1814.	Bengal Code.	For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature.	So much as has not already been repealed.
Regulation VII, 1822.	Bengal Code.	For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other Officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land.	Section 25.
Regulation IX, 1825.	Bengal Code.	For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	So much of Clause 9, Section 5, as provides that Section 25 of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825.

Number and date of Acts.	Title.	Extent of Repeal.
Act I of 1846.	For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole.
Act XVIII of 1852.	To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.	The whole.
Act XX of 1853.	To amend the law relating to Pleaders in the Courts of the East India Company.	The whole.
Act X of 1859.	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	So much of Section 71 as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section 149.

SECOND SCHEDULE.

Form of Pleader or Mookhtar's Certificate.

Stamp

Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. Pleader [*or* Mookhtar] whose place [*or* places] of business is [*or* are] at . hath this day delivered and left with me a declaration in writing signed by him, and containing his name and place [*or* places] of business and the Court [*or* Courts] of which he is admitted a Pleader [*or* Mookhtar], together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court

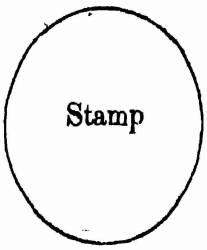
Court of Judicature at Fort William in Bengal [*or* the Sudder Court of the North-Western Provinces, *or as the case may be*], and that he is entitled to practise as a Pleader [*or* Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [*or* the Sudder Court of the North-Western Provinces, and any subordinate Court, *or* the Sudder Ameens' Courts, *or* the Moonsiffs' Courts, *as the case may be*], and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [*or* of the North-Western Provinces, *or as the case may be*] for the period of one year from the date hereof. Given under my hand this day of 186

C. D.

Registrar [*or as the case may be*] of the High Court of Judicature at Fort William in Bengal [*or* of the Sudder Court of the North-Western Provinces, *or as the case may be.*]

THIRD SCHEDULE.

Form of Revenue Agent's Certificate.



Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [*or* of the Lower Provinces, *or as the case may be*], and in any Office subordinate thereto in such Provinces, for the period of one year from the date hereof. Given under my hand this day of 186

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [*or* the Lower Provinces, *or as the case may be.*]

ACT No. XXI of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th April 1865.)

An Act to define and amend the Law relating to Intestate Succession among the Parsees.

Preamble.

WHEREAS it is expedient to define and amend the Law relating to Intestate Succession among the Parsees; It is enacted as follows:—

Division of property among widow and children of Intestate.

1. Where a Parsee dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widower and children of Intestate.

2. Where a female Parsee dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

Division of property amongst the children of male Intestate who leaves no widow.

3. When a Parsee dies leaving children but no widow, the property of which he shall have died intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of female Intestate who leaves no widower.

4. When a female Parsee dies leaving children but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.

5. If any

PRICE ONE ANNA.

5. If any child of a Parsee Intestate shall have died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death.

Division of pre-deceased child's share of Intestate's property among the widow or widower and issue of such child.

6. Where a Parsee dies leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall taken one moiety of the property as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

Division of property when the Intestate leaves a widow or widower, but no lineal descendants.

7. When a Parsee dies leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of the property as to which he or she shall have died intestate. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

Division of property when the Intestate leaves neither widow nor widower nor lineal descendants.

8. The

Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

8. The following portions of the Indian Succession Act, 1865, shall not apply to Parsees (that is to say) the whole of Part III, the whole of Part IV excepting Section twenty-five, the whole of Part V, and Section forty-three.

THE FIRST SCHEDULE.

(1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.

(2.) Grandfather and grandmother.

(3.) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(4.) Great grandfather and great grandmother.

(5.) Great grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

THE SECOND SCHEDULE.

(1.) Father and mother.

(2.) Brothers and sisters and the lineal descendants of such of them as shall have predeceased the Intestate.

(3.) Paternal grandfather and paternal grandmother.

(4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(5.) Paternal grandfather's father and mother.

(6.) Paternal

(6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

(7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

(8.) Maternal grandfather and maternal grandmother.

(9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(10.) Son's widow, if she have not re-married at or before the death of the Intestate.

(11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grandfather's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

Printed at the Bengal Printing Company's Press.

ACT No. XXII OF 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 17*th April* 1865).

An Act to amend Act No. XVIII of 1864 *(to provide for the appointment of a Municipal Committee for the City of Lucknow.)*

Preamble.

Whereas it is expedient to amend Act No. XVIII of 1864 (*to provide for the appointment of a Municipal Committee for the City of Lucknow*); It is enacted as follows :—

Act XVIII of 1864, Section 21, repealed.

1. Section twenty-one of the said Act No. XVIII of 1864 is hereby repealed, and the following Section shall be read in lieu thereof.

Power to Governor-General in Council to extend Act XVIII of 1864.

2. It shall be lawful for the Governor-General of India in Council, by Order published in the Gazette of India, to extend the said Act to any place under the immediate administration of the Government of India; and when so extended, it shall have effect in such place as if the name of such place were substituted throughout the said Act for the name "Lucknow." The Governor-General of India in Council shall by such Order declare how many persons shall be members, and what and how many persons shall be *ex-officio* members, of the Committee to be constituted in the place to which the said Act shall have been so extended: Provided that the number of such *ex-officio* members shall not be more than one-third of the number of all the members of such Committee.

This Act to be construed with Act XVIII of 1864.

3. This Act shall be read and taken as part of the said Act No. XVIII of 1864.

PRICE ONE ANNA.

Military Orphan Press.—1865.

ACT No. XXIII of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 17th April 1865).

An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.

Preamble.

WHEREAS it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases ; It is enacted as follows :—

Interpretation of terms.

1. In this Act, unless there be something repugnant in the subject or context—

"Punjab."

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor"

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court."

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge," "Registrar."

"Judge," "Registrar," and other words denoting any particular Officer respectively include any person for the time being authorized to act as such Judge, Registrar or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Barrister"

"Barrister."

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Section."

"Section" denotes a Section of this Act.

Number.

Words in the singular include the plural : words in the plural include the singular.

Gender.

Words importing the masculine gender include females.

Constitution of Chief Court.

2. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing : Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for that purpose.

Precedence of Judges of Chief Court.

3. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

Tenure of office of Judges of Chief Court.

4. The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council.

Declaration to be made by persons appointed Judges of Chief Court

5. Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or such authority or person as he may commission to receive the same :—

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

6. The

Appointment of Registrar.

6. The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under the forty-fourth Section.

Appointment and removal of Ministerial Officers.

7. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act.

Dismissal of Officers of Court.

8. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

Seal of Chief Court.

9. The Chief Court shall have, and use as occasion may require, a Seal with this inscription "The Seal of the Chief Court of the Punjab", to be made under the directions of the Lieutenant-Governor; and all summonses, decrees and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court.

Processes to be sealed with Court Seal, and signed by Judge or Registrar.

Agent for Secretary of State, suitors and Advocates, &c., of High Courts may appear and plead.

10. Any person duly authorized by the Secretary of State for India in Council to appear plead or act on his behalf; (2) any suitor appearing, pleading or acting on his own behalf or on behalf of a co-suitor; (3) any person who, for the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western

Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever.

Licensing of Pleaders

Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion.

Rules regarding their qualifications and admission.

It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

11. The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

Power to suspend or revoke Pleaders' license.

12. The fees to be received by any Pleader, other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader except such fees as shall be allowed under the forty-fourth Section.

Fees of Pleaders to be subject to control.

13. The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provision hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council. Provided that when a Settlement of Land Revenue shall be in progress, and the Local Government, under Act No. XIX of 1865 *(to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies)* shall have invested the Financial

The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.

nancial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent revenue or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

Extraordinary original Civil jurisdiction.

14. The Chief Court may remove and try and determine as a Court of original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

Power to transfer suits and appeals from one subordinate Court to another.

15. The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

Power to call for record of cases decided by subordinate Courts.

16. The Chief Court may call for the record of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

Special appeal from Courts in Punjab to lie only to Chief Court.

17. All special appeals preferred after the date on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

Regulation of proceedings in Civil suits.

18. Save as in this Act is otherwise provided, the proceedings in the Chief Court in Civil suits of every description between party and party shall be regulated by the rules relating to Civil Procedure for the time being in force in the Punjab.

19. In

19. In the exercise of its Civil jurisdiction, Original as well as Appellate, such rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

In exercise of its Civil jurisdiction, law of the local Courts to apply.

20. The Chief Court shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

Power to try European British subjects.

21. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

Charge to be delivered to Registrar with commitment of European British subject.

22. The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Chief Court to consider, and, if it will, to amend, alter or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded.

23. The

23. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Accused to have copies of examinations.

24. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

Effect of charge.

25. When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Chief Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

26. The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab: but it may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

Places of holding sittings.

27. Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in the twenty-first Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal jail in which he can be most

Procedure pending directions of Chief Court as to place of trial of European British subject.

most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which he is directed to be tried; and the Officer in charge of such Criminal jail shall keep him in safe custody until discharged in due course of law.

Chief Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

28. It shall be lawful for the Chief Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

29. All trials under the twentieth Section shall be by Jury.

Summoning of Jurors to serve on trials.

30. Whenever the Chief Court shall have given notice of its intention to hold sitings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider

Military men not exempt.

consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Jury for trial of European British subject

31. If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans or both Europeans and Americans.

Number of Jury requisite to verdict of guilty.

32. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

33. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original Criminal jurisdiction.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court

34. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences or findings in trials before the Chief Court acting in the exercise of its original Criminal jurisdiction; but the Chief Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to single Judge to reserve for Chief Court any question of law or evidence.

35. When any person has been convicted of an offence before a Judge of the Chief Court acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the District or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in the three hundred and eighty-fifth Section of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question reserved.

Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences and execution

36. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original Criminal jurisdiction and to trials before such Court and to sentences by such Court and to the carrying into execution of such sentences.

37. Every

37. Every European British subject apprehended within the Punjab, or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial as hereinafter provided on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

British subjects to be amenable for offences committed in foreign territory.

38. The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

Committing Magistrate to report to the Lieutenant-Governor.

39. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor-General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.

40. When the person charged is committed to custody, the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall from time to time require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

Form of warrant of commitment and of bail-bond.

41. In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

Order of Lieutenant-Governor to be full authority.

42. No

Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.

42. No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.

43. Save as herein otherwise provided, the Chief Court may by its own rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.

44. The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts, to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette and after being so published shall be used and observed in the Chief Court: Provided that such general rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

Provisions as to proceedings pending in Judicial Commissioner's Court.

45. The Chief Court shall have jurisdiction in all proceedings pending in the Court of the Judicial Commissioner of the Punjab at the time of the constitution of the Chief Court; and all previous proceedings of the Court of the said Commissioner shall be dealt with as if the same had been had in the Chief Court.

46. If

46. If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say :—

Procedure in case of difference of opinion between Judges when Court consists of only two.

(*1st.*)—If the case be heard in appeal and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

1st.—On appeal on a question of fact.

(*2nd.*)—If the difference of opinion shall be on a point of law or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred ; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

2nd.—On appeal on a question of law.

(*3rd*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under the thirty-fifth Section.

3rd.—In exercise of original jurisdiction on a question of law.

(*4th.*) If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

4th.—In exercise of original jurisdiction on a question of fact.

47. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

Hearing and decision of referred cases.

48. The

Parties may appear in person, or by Advocate or Vakeel.

Transmission of judgment of High Court and proceeding thereupon.

Costs of reference to High Court.

48. The parties to such cases may appear, plead and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court, under the forty-sixth Section, shall be costs in the suit.

Registers, books, accounts and statements to be kept and furnished by Chief Court.

Copies of records to be furnished.

49. The Chief Court shall keep such registers, books and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Chief Court's functions exercisable by single Judge.

50. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the forty-fourth Section.

Sections 10, 11 and 12 not to be affected on extension to Punjab of Act XX of 1865.

51. Whenever the Lieutenant-Governor of the Punjab shall, under the authority vested in him by Section forty-seven of the Pleaders, Mookhtars and Revenue Agents' Act, 1865, extend the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections ten, eleven and twelve of this Act.

Short title.

52. This Act may be cited as "The Punjab Chief Court Act, 1865."

Commencement of Act.

53. This Act shall come into operation on such day as the Governor-General of India in Council shall fix by a notification published in the Gazette of India.

Printed at the Bengal Printing Company's Press.

ACT No. XXIV OF 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the* 14*th July* 1865.)

An Act to give effect to certain Warrants of Attorney and Cognovits.

Preamble.

WHEREAS it is expedient to give effect to Warrants of Attorney to confess judgment in suits in the High Court of Judicature at Fort William in Bengal which were executed on the first day of July 1862, being the date of the establishment of the said Court, or on the date of the passing of this Act, or on any intermediate day, and to Cognovits executed or given on any of the days above mentioned by any defendant in any suit pending in the same Court: and whereas it is also expedient to render valid judgments which have been signed on such Warrants of Attorney and Cognovits respectively, and executions and subsequent proceedings which have been sued out and taken thereon; It is enacted as follows:—

Judgment may be signed on Warrants and Cognovits executed or given between 1st July 1862 and the date of passing of this Act or on either of these days.

1. Judgment may be signed in the said High Court upon every Warrant of Attorney and *Cognovit actionem* executed or given in or relating to proceedings in the same Court on the said first day of July 1862, or on the date of the passing of this Act, or on any intermediate day, in the same manner as judgments were signed in the late Supreme Court of Judicature at Fort William in Bengal upon Warrants of Attorney and Cognovits executed or given in or relating to proceedings in such Court; and all such Warrants of Attorney and Cognovits shall be subject, as nearly as circumstances permit, to all rules of Court and provisions of Acts of Parliament which were in force at the time when the said High Court was established, and to which Warrants of Attorney and Cognovits given in or relating to proceedings in the said Supreme Court were then subject.

Judgments on such Warrants or Cognovits to be deemed decrees of the High Court.

2. A judgment entered up or signed on any Warrant of Attorney or Cognovit to which this Act extends shall be deemed a decree of the said High Court, and may be executed and enforced accordingly.

3. Any

PRICE ONE ANNA.

Judgments on such Warrants or Cognovits to be as valid as if signed in the late Supreme Court.

3. Any judgment which has been signed on any such Warrant or Cognovit in the said High Court shall be deemed to be and always to have been as valid and effectual as if the same had been signed in the said Supreme Court upon a Warrant of Attorney or Cognovit given in that Court; and every writ of execution which has been sued out thereon, and every execution of any such writ, and all proceedings taken thereon, shall for all purposes be deemed and taken to be and always to have been as valid and effectual as if the same had been sued out of the said Supreme Court upon a judgment signed in the same Court upon a Warrant of Attorney or Cognovit given in or relating to proceedings in that Court; and no suit or other proceeding shall be commenced, prosecuted or carried on against any person for any thing done under or in pursuance of such judgment or execution which could not have been maintained if such judgment had been entered up in the said Supreme Court upon a Warrant of Attorney or Cognovit executed or given in or relating to proceedings in that Court, and the execution had been issued on such judgment.

Power to High Court to set aside or annul Warrants and Cognovits.

4. The said High Court shall have the same powers to set aside or annul any such Warrant or Cognovit and any judgment signed thereon and any execution issued upon such judgment, as the said Supreme Court exercised with respect to Warrants of Attorney or Cognovits executed or given in or relating to proceedings in that Court and to judgments entered up thereon and to executions upon such judgments.

Warrants and Cognovits executed and given after the passing of this Act to be void.

5. Every Warrant of Attorney and Cognovit executed or given after the passing of this Act, in or relating to proceedings in the said High Court, or in any other High Court of Judicature in British India, and every judgment signed thereon, and all executions issued upon such judgments, shall be deemed null and void.

This Act may be extended to the High Court at Bombay.

6. This Act may be extended, *mutatis mutandis*, to the High Court of Judicature at Bombay, by an order of the Governor in Council to be published in the Local Government Gazette.

Military Orphan Press, No. 8.—4-8-65.—2,000.

ACT No. XXV of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th July 1865).

An Act to amend the Law relating to the duties of Customs on goods imported and exported by Sea.

Preamble.

WHEREAS it is expedient to amend the Law relating to Customs duties; It is enacted as follows:—

Act XVII of 1865 repealed.

1. Act XVII of 1865 is repealed.

Customs duties to be levied as prescribed in the Schedules annexed to this Act.

2. In lieu of the Customs duties authorized to be charged in Act VII of 1859 *(to alter the duties of Customs on goods imported or exported by Sea)*, Act XXIII of 1859 *(to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively)*, Act X of 1860 *(to amend Act VII of* 1859 *to alter the duties of Customs on goods imported or exported by Sea)*, Act XI of 1862 *(to amend Act X of* 1860, *to amend Act VII of* 1859), Act XXIII of 1862 (*to amend Act XI of* 1862), and Act XXIII of 1864 *(to amend the law relating to the Customs duties on goods imported by Sea)*, there shall be levied and collected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI of 1848 (*for equalizing the duties on goods imported and exported on Foreign and British bottoms, and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company*), or to affect the provisions of the Consolidated Customs' Act.

Operation of Act.

3. So far as regards the Customs duty on the export of Saltpetre, authorized to be levied by Schedule B hereunto annexed, this Act shall take effect as if it had been passed and had received the assent of the Governor-General on the ninth day of March 1865; and so far as regards the alterations made by this Act in Schedules A and B of the Customs duties which were authorized to be levied by Act XVII of 1865, this Act shall take effect as if it had been passed and had received the assent of the Governor-General on the first day of April 1865, and all duties which may have been levied from

PRICE ONE ANNA.

from and after that date, other than those authorized to be levied according to Schedule B annexed to this Act, shall be refunded. But save as aforesaid, this Act shall take effect from the fourteenth day of July 1865.

Short title.

4. This Act shall be cited as "The Indian Customs Duties' Act of 1865."

SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any Port in British India, not being a Free Port.

1.	Bullion and Coin	Free.
2.	Precious Stones and Pearls	"
3.	Grain and Pulse	
4.	Horses and other living Animals	"
5.	Ice	
6.	Coal, Coke, Bricks, Chalk, and Stones	"
7.	Cotton Wool	
8.	Wool	
9.	Flax	
10.	Hemp	
11.	Jute	
12.	Hides and Skins, raw	
13.	Books	
14.	Paper	
15.	Maps, Prints, Music, and Works of Art	
16.	Seeds when imported by any Public Society for gratuitous distribution	
17.	Agricultural Implements	"
18.	Firewood	"
19.	Machinery used exclusively for purposes of Agriculture, Navigation, Mining, or Manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery ...	"

And the Officer in charge of the Custom House, subject to the orders of the Local Government acting under the general instructions of the Government of India, shall decide what articles come within the definition of such machinery, or materials forming component parts thereof, and such decision shall be final in law.

20.	Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service	Free.
21.	Guano and manures of all kinds	"
22.	Bottles	"
23.	Wines and Liqueurs ...	One Rupee the imperial gallon.

24. Porter,

24.	Porter, Ale, Beer, Cider, and other similar fermented liquors	One Anna the imperial gallon.
25.	Spirits	Three Rupees the imperial gallon, and the duty to be rateably increased as the strength exceeds London Proof.

Provided that ten per cent. *ad valorem* shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such Rules as the Local Governments shall from time to time prescribe, for ascertaining that such spirits are unfit for use as a beverage, and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.

26.	Iron (which shall not be taken to include ironmongery, cutlery, or hardware)	One per cent. *ad valorem.*
27.	Hops	One per.cent. *ad valorem.*
28.	Tobacco, whether manufactured or not manufactured	Ten per cent. *ad valorem.*
29.	Piece Goods	Five per cent. *ad valorem.*
30.	Twist	Three and a half per cent. *ad valorem.*
31	All other articles not included in the above enumeration	Seven and a half per cent. *ad valorem.*

SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea to any Foreign Port, as defined in the Consolidated Customs' Act, from any Port in British India.

1.	Bullion and Coin	Free.
2.	Precious Stones and Pearls	"
3.	Horses and other living Animals	"
4.	Rum	"
5.	Spirits	"
6.	Tobacco, and all preparations thereof	"
7.	Cotton Wool	"
8.	Flax	"
9.	Hemp	"
10.	Books	"
11.	Maps, Prints, and Works of Art	"

12. Teak

12.	Teak Timber		Free.
13.	Coal		"
14.	Iron		"
15.	Jute		"
16.	Coffee		"
17.	Tea		"
18.	Sugar		"
19.	Wool		"
20.	Hides and Skins, raw		"
21.	Raw Silk and Silk Chussum		"
22.	Grain and Pulse of all sorts ...	Two Annas the Indian maund	Of forty seers of eighty tolas to the seer.
23.	Saltpetre ...	One Rupee the Indian maund	
24.	Indigo ...	Three Rupees the Indian maund	
25.	Lac Dye and Shell Lac ...	Four per cent. *ad valorem.*	
26.	All country articles not enumerated or named above ...	Three per cent. *ad valorem.*	

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ACT No. XXVI of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 3rd August* 1865.)

An Act to amend Act XXIX of 1861 *(to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army).*

Preamble.

WHEREAS it is expedient to amend the 83rd Article of War enacted in the said Act XXIX of 1861; it is enacted as follows:—

Repeal of Article 83.

1. The Article of War numbered 83 in the said Act XXIX of 1861, is hereby repealed, and in lieu thereof, the following Article of War shall be read and taken as Article 83 of the said Act XXIX of 1861:—

ARTICLE 83.

Punishment for light offences.

The Commander-in-Chief in India shall, under the authority of the Governor-General in Council, prescribe the minor punishments to which Non-Commissioned Officers and Soldiers shall, for light offences, be liable, without the intervention of a Court Martial; and shall specify the Officer or Officers by whom such minor punishment, and the extent thereof, may be awarded. But no such minor punishment shall be awarded by a Court Martial.

Construction.

2. This Act shall be read and taken as part of the said Act XXIX of 1861.

PRICE ONE ANNA.

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ACT No. XXVII of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 17th August 1865).

An Act to make temporary provision for the decision of Civil Appeals in the Districts within the Lieutenant-Governorship of the Punjab.

Preamble

Whereas it is necessary, pending the establishment of the Chief Court in the Punjab under Act XXIII of 1865, to make special provision for the decision of such appeals as previously to the passing of Act XIX of 1865 were heard by the Financial Commissioner, It is enacted:—

Punjab Government may invest Financial Commissioner with powers of Judicial Commissioner for trial of appeals

1. Until such time as Act XXIII of 1865 shall come into operation, the Government of the Punjab may invest the Financial Commissioner of the Punjab with the powers of Judicial Commissioner, for the purpose of trying generally appeals in respect of suits regarding land, or the rent, revenue or produce of land, anything in Act XIX of 1865 to the contrary notwithstanding.

Operation of Act.

2. The provisions of this Act shall apply to all such appeals as aforesaid, whether filed before or after the first of May 1865.

PRICE ONE ANNA.

Military Orphan Press,—No 16—2 9-65—2 000

ACT No. XXVIII of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 27th September 1865.)

An Act to provide for the more speedy liquidation of Insolvent Traders' Estates in Bombay.

Preamble.

Whereas it is expedient to provide for the more speedy liquidation of Insolvent Traders' Estates in Bombay; It is enacted as follows :—

Definition of terms.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them :—

" Trader."

The word " Trader" shall mean any person or partnership, not being a joint stock Company, carrying on trade or mercantile operations within the local limits of the ordinary original Civil jurisdiction of the High Court of Judicature at Bombay.

" The Court.

The expression " the Court" shall mean the High Court of Judicature at Bombay in its ordinary original Civil jurisdiction.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

When traders' estates may be wound up under this Act.

2. Whenever any trader shall be, or shall declare himself, unable to pay his debts, it shall be lawful to wind up the estate of such trader by trustees under the control of the Court.

Trader when to be deemed unable to pay his debts.

3. A trader shall be deemed to be unable to pay his debts-

1.—Whenever a creditor, to whom the trader is indebted in a sum exceeding five thousand Rupees then due, has duly served on the trader a demand in writing requiring the trader to pay the sum so due, and the trader has for the space

PRICE TWO ANNAS.

space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor.

2.—Whenever satisfaction of a judgment, decree, or order of any Court in favour of any creditor in any suit or other legal proceeding cannot be obtained.

3.—Whenever the trader has committed an act of insolvency within the meaning of an Act passed in the eleventh and twelfth year of the reign of Her Majesty Queen Victoria, intituled An Act to consolidate and amend the Laws relating to Insolvent Debtors in India.

Power for creditors to resolve that estate ought to be wound up.

4. At any meeting of creditors held after a trader is, or has declared himself, unable to pay his debts, and whether such meeting shall have been convened at the instance of the trader or of one or more of his creditors, provided that six days' notice of such meeting shall have been given by advertisement in two of the daily English newspapers and in two of the vernacular newspapers published in Bombay, it shall be lawful for a majority in number and unsecured value of the creditors present or represented at such meeting, to resolve that the estate of such trader ought to be wound up under the management of trustees, and that an application shall be made to the Court for the purpose; and upon such resolution being adopted the meeting shall proceed to nominate three or more trustees for the liquidation of such estate, and to fix the amount or rate of salary or remuneration to be paid to such trustees, and the amount of security (if any) to be given by such trustees.

Resolutions to be reported to the Court and advertized.

5. Every such meeting shall be presided over by a Chairman elected by the meeting, and such Chairman shall determine the right of persons present to vote upon the matters aforesaid, and shall report the resolutions adopted by such meeting to the Court by filing a copy thereof under his own signature in the office of the Prothonotary of the Court within two days from the date of such resolutions being passed, and shall also cause such resolutions to be advertized without delay in the Government Gazette and in two of the daily English newspapers and two of the vernacular newspapers published in Bombay: and all necessary expenses incurred by or by the authority of the Chairman in carrying out the resolutions of the meeting shall be payable by the trustees out of the estate.

Form of application in the Court.

6. Upon such resolutions being so filed in Court as aforesaid, the Chairman or any creditor nominated in that behalf by the meeting may apply to the Court for an order to wind up the estate on the terms of such resolutions. Every such application shall be in the form of a petition

tion and shall be verified by the petitioner in like manner as plaints are required to be verified by Act VIII of 1859; and on hearing such petition, if the Court shall be satisfied that the resolutions were duly carried, and that their terms are reasonable and calculated to benefit the general body of the creditors under the estate, it shall confirm or modify the same as it shall deem fit, and shall make order accordingly, and in such order shall give such directions as to the management of the estate and the advertisement of such order as it shall deem expedient; Provided always that the trader or any creditor may, within six days after the making of such order, apply to the Court to set aside the same either wholly or in part, giving to the petitioner reasonable notice of such application.

Power for Court to confirm or modify resolutions and give directions.

7. Upon the making of such order, all the moveable and immoveable estate and effects of such trader and all debts due to him and all the future estate, right, title, interest and trust of such trader in or to any moveable or immoveable property which such trader may purchase or which may revert, descend, be devised or bequeathed or come to him, and all debts growing due to such trader in respect of transactions included in the liquidation, before the Court shall have made its final order in respect to the liquidation of his estate, shall vest in the trustees appointed by the Court, and all books, papers, deeds, documents and writings in any way relating to such trader's estates and effects in his possession or under his custody or control, shall be forthwith deposited with such trustees; and such order shall be entered of record in the said Court; and such notice thereof shall be published as the Court shall direct; and such order when so made shall by virtue of this Act relate back to and take effect from the filing of the said resolutions in Court as aforesaid, and shall instantly and without any conveyance or assignment vest all the moveable and immoveable estate, effects and debts as aforesaid of such trader in the said trustees.

Order of Court to vest trader's estate on trustees.

8. After the date of such order all suits and legal proceedings of whatever kind in respect of such trader's civil liabilities shall be stayed, and no execution, attachment or other process against such trader's property in respect of any debt, and no process against his person in respect of any debt, other than such process by writ or warrant as may be had against a debtor about to depart out of the jurisdiction of the Court, shall be available to any creditor or claimant without leave of the Court.

Protection to trader after vesting order.

9. The trustees shall have power by virtue of this Act in their own name to do the following things:—

Power of Trustees.

To bring or defend any action suit or prosecution or other legal proceeding Civil or Criminal on behalf of such trader; and on like behalf to claim, prove and draw

draw dividends under any bankrutpcy, insolvency or liquidation by trustees under this Act.

To carry on the business of such trader so far as may be necessary for the beneficial liquidation of the same.

To sell the property, moveable or immoveable, effects and things in action of such trader by public auction or private contract, with power if they think fit to transfer the whole thereof to any person or Company, or to sell the same in parcels.

To execute on behalf of such trader all deeds, receipts and other documents they may think necessary.

To refer disputes to arbitration and compromise any debts or claims.

To draw, accept, make and endorse any Hoondee, Bill of Exchange or Promissory Note on behalf of such trader, and also to raise upon the security of the assets of such trader's estate from time to time any sum or sums of money, whenever the same shall be necessary for the purposes of this Act.

To do and execute all such other things as may be necessary for winding up the affairs and distributing the assets of such trader.

To apply to the Court from time to time as occasion may require for its assistance in carrying out the powers conferred upon the trustees by this Act; Provided always that such trader or any creditor shall be at liberty to apply to the Court to set aside or restrain any act done or about to be done by the said trustees under this Act, and the Court shall make such order upon such application with respect to costs and otherwise as it shall deem fit; and provided also that nothing herein contained shall discharge the said trustees or any of them from liability to account to the said Court for acts done by them in the liquidation of the estate of the trader under this Act.

Power to trustees to examine trader, &c., on oath.

10. The trustees shall have power to summon before them and to examine upon oath or otherwise such trader and any of his assistants, clerks or servants whom the trustees may deem capable of giving any information material to the full disclosure of the trader's transactions, books and affairs, or to the winding up of the same; and the provisions of the Acts in force for the time being for procuring the attendance of witnesses, and for the examination and punishment of witnesses in suits before Civil Courts, shall be of equal force and effect in respect of any person summoned to appear as a witness under the provisions of this Act.

11. If

11. If in the course of their investigation it shall appear to the trustees that such trader has fraudulently, with the intent to conceal the state of his affairs or to defeat the objects of this Act, destroyed or otherwise wilfully prevented or purposely withheld the production of any book, paper or writing relating to such of his affairs as are subject to investigation under this Act, or kept or caused to be kept false books, or made false entries in, or withheld entries from, or wilfully altered or falsified any such book, paper or writing, or that such trader has fraudulently, with intent of diminishing the sum to be divided among his creditors or of giving an undue preference to any of the said creditors, discharged or concealed any debt due to or from the said trader or made away with, charged, mortgaged or concealed any part of his property of what kind soever, the trustees shall forthwith report the same to the Court, which shall enquire into the same in like manner and with like powers as a Commissioner of the Court for the Relief of Insolvent Debtors in Bombay; and upon such offence being proved against such trader to the satisfaction of the Court, it shall be lawful for the Court to adjudge that the offender shall be punished with rigorous or simple imprisonment, as the Court shall direct, for a term which may extend to two years, and by warrant under the seal of the Court to order the offender to be arrested and committed to prison and there to be detained accordingly.

Penalty on trader fraudulently concealing effects or falsifying or destroying books, &c.

12. If in the course of their investigation, it shall appear to the trustees that such trader has contracted any of his debts fraudulently or by means of breach of trust or by means of false pretences or without having any reasonable or probable expectation at the time when contracted of paying the same, or shall have fraudulently or by means of false pretences obtained the forbearance of any of his debts by any of his creditors, or if it shall appear that such trader's whole debts so greatly exceeded his means of providing for the payment thereof during the time when the same were in the course of being contracted (reference being had to his actual and expected property) as to show gross misconduct in contracting the same, the trustees shall forthwith report the same to the Court, which shall thereupon enquire into the same in like manner and with like powers as a Commissioner of the Court for the Relief of Insolvent Debtors in Bombay; and upon such offence being proved against such trader to the satisfaction of the Court, it shall be lawful for the Court to adjudge that the offender be committed to and detained in the gaol at Bombay, on the debtors' side thereof, for such term not exceeding two years as the Court shall direct.

Penalty on trader fraudulently or dishonestly contracting debt.

13. If upon any decree voluntarily suffered by such trader, being insolvent, to any person with intent to give such person a preference over other creditors of such trader, any attachment or execution is issued against such trader by virtue whereof the estate and the effects of

Executions upon certain decrees within three months of first order to be void.

of such trader or any of them are attached or taken in execution at any time within three months next before the filing of such order as herein mentioned, such attachment or execution shall be void in favour of the trustees appointed by virtue of this Act as against the attaching or execution creditor, whether the same has been completely executed or not, and it shall be lawful for such trustees to recover back from such creditor the estate or effects of such trader so attached or taken in execution or the proceeds thereof as the case may be; Provided always that such creditor shall, if the attachment or execution would have been valid but for this provision, be entitled to retain or levy, as the case may be, his costs of suit and of such attachment or execution.

Fraudulent conveyances made by trader within two months before first order to be void.

14. If any trader whose estate shall be vested in trustees under the provisions of this Act shall, when in insolvent circumstances, and within two months before the filing of such order as herein first mentioned, voluntarily convey, assign, transfer, charge or make over any property moveable or immoveable, or any security for money, bond, bill, note, money, goods or effects whatsoever to any person or upon any trust, every such conveyance, assignment, transfer, charge or making over shall be deemed and is hereby declared to be fraudulent and void as against such trustees.

Power of Court to entertain applications of trader or any creditor respecting trader's estate.

15. The Court shall have jurisdiction at any time during the liquidation of any trader's estate under this Act, to entertain any application of the said trader or of any person claiming to be a creditor, respecting the disclosure, distribution, inspection, conduct, management or liquidation of such trader's estate or affairs, or any act or thing relating thereto, or generally for the decision of any dispute or question that may arise between the trustees and such trader, or any creditor, debtor or claimant.

Power of Court to remove and appoint trustees.

16. The Court shall have power to remove any trustees appointed under this Act, and to appoint others in their stead, and to fill up any vacancy occasioned by the death, insolvency, resignation or departure from India of any trustee, or by any other sufficient cause; and the Court shall upon application to it in that behalf declare whether any act hereby required or authorized to be done by the trustees may be done by all or one or more of such trustees.

Power of Insolvent Court to order insolvent estates to be wound up under this Act.

17. It shall be lawful for the Court for the Relief of Insolvent Debtors at Bombay, upon application by or on behalf of a majority in number and unsecured value of the creditors of any insolvent debtor who has filed his petition in that Court, to order that the estate of such insolvent shall be wound up by trustees

tees under the provisions of this Act, upon such terms as to costs and remuneration to the Official Assignee, and with such directions as shall appear to be necessary and just.

Liberty to trustees under deed of assignment to apply that estate may be wound up under this Act.

18. It shall be lawful in any case in which the estate of any trader has been vested in trustees under a deed of assignment before the passing of this Act, for such trustees to apply to the Court for liberty to wind up such estate under the provisions of this Act.

Liberty to trustees to allow maintenance to trader.

19. In any case in which the estate of a trader shall be vested in trustees under the provisions of this Act, it shall be lawful for the trustees, with the sanction of the Court, to make to such trader out of the funds in their hands a reasonable monthly allowance for maintenance.

Remuneration of trustees.

20. There shall be paid to the trustees such salary or remuneration by way of percentage or otherwise as the Court shall direct; and all costs, charges and expenses properly incurred in winding up the estate, including the remuneration of the trustees and the maintenance of the trader, shall be payable out of the assets of the trader in priority to all other claims.

Trustees to file accounts half-yearly.

21. During the liquidation of the estate the trustees shall file half-yearly accounts of the progress of such liquidation in the office of the Prothonotary of the Court; and as soon as the affairs of the trader are fully liquidated and the estate distributed, the trustees shall make up an account showing the manner in which such liquidation has been effected and the property of the trader disposed of, and such account, with the vouchers thereof, shall be filed in Court. All accounts so filed shall be open at all reasonable times to the inspection of creditors, and copies thereof shall be granted on payment of such fees as may from time to time be fixed by the Court.

Estate when to be deemed fully wound up.

22. The trustees shall give notice of the filing of such final account with its vouchers by advertisement of even date in the Government Gazette and in two of the daily English newspapers and in two of the vernacular newspapers published in Bombay; and if no order to the contrary shall be made by the Court within three months after the date of the publication of such advertisement, the said estate shall be deemed to have been fully liquidated and wound up, and the trustees shall thereupon be deemed to be fully released and discharged from all liability in respect of the said estate and the liquidation thereof.

23. After

23. After the filing of such final account as aforesaid and upon the said trustees certifying to the Court under their hands that the said trader has assigned, conveyed or made over to them all his property, effects and securities of every nature and kind whatsoever, and all books of account, accounts, vouchers, papers and documents relating to his estate, and also that he has given all reasonable assistance to the trustees in and towards realizing and winding up his estate, it shall be lawful for the Court upon the application of such trader, and upon such notice as it shall direct, to grant to such trader an order of discharge; Provided always that if such certificate as aforesaid shall have been refused to any trader by the trustees, such trader may nevertheless apply to the Court for such order of discharge and the Court shall have power, upon such notice to the trustees as it shall direct, to grant such trader an order of discharge if it shall think fit.

Trustees may grant certificate to trader for order of discharge.

24. Such order of discharge shall operate to discharge the trader and all property and effects acquired by him subsequent to the filing of the order herein first mentioned, from all debts, claims or demands in respect of the transactions included in the account filed by the trustees, and no suit shall thereafter be maintainable against the said trader, nor shall such after-acquired property and effects be liable to be attached or taken in execution, in or under the order of any Court in British India, in respect of such transactions.

Effect of order of discharge.

25. Any application directed by this Act to be made to the Court shall be made to a Judge in Chambers, who shall have power to make any order necessary to be made under this Act, or to refer such application to a full Court; and such Court or Judge is hereby empowered to make any order in respect of the premises, which could be made by a Commissioner of the Court for the Relief of Insolvent Debtors under 11 and 12 Vic., cap. 21.

Applications to be made to Judge in Chambers.

26. The operation of this Act shall be limited to estates in which the admitted liabilities are not less than five lakhs of Rupees.

Limitation of Act.

27. This Act shall come into operation on the first day of October 1865 and shall remain in force until the thirtieth day of September 1867. Provided that as to such estates (if any) as shall, on or before such day, have been brought under the operation of this Act, and of which the winding up under its provisions shall not have been completed, this Act shall remain in force until such estates shall have been wound up as aforesaid.

Commencement of Act.

Military Orphan Press.—No. 28.—17-10-65.—2,000.

ACT No. XXIX of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Rec* [illegible] *General on the 22nd December* 1865).

An [illegible]

V [illegible]

Preamble. Agents' Act, 1865 (Act No. XX of [illegible]), [illegible] follows :—

Persons qualified as Pleaders or Mookhtars when Act No. XX of 1865 shall come into operation, may continue to practise for six months as if that Act had not been passed.

1. Notwithstanding anything contained in the Pleaders, Mookhtars and Revenue Agents' Act, 1865, any person who at the time when such Act shall come into operation shall be duly qualified to practise as a Pleader or Mookhtar in any Court in any part of the territories in which the said Act shall take effect, shall and lawfully may continue to practise as a Pleader or Mookhtar, as the case may be, in such Court for the period of six calendar months from the time when the said Act shall come into operation in that part of India, without being admitted or enrolled, or having previously obtained a stamped certificate in pursuance of the said Act in the same manner as if such Act had not been passed.

Fees now payable by any person in respect of his adversary's Pleader to be payable during the six months, as if Act XX of 1865 had not been passed.

2. All fees which are now by law payable upon proceedings in any Court by any party in respect of the fees of his adversary's Pleader shall continue to be payable, and may be allowed during the said period of six calendar months as if the said Act had not been passed.

3. Notwithstanding

PRICE TWO ANNAS.

Persons practising as Revenue Agents when Act No. XX of 1865 shall come into operation, may continue to practise for six months as if that Act had not been passed.

3. Notwithstanding anything contained in the said Act, any person who at the time when such Act shall come into operation shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, in any part of the territories in which the said Act shall take effect, shall and lawfully may continue to practise as an Agent before such Board or in such Office, as the case may be, for the period of six calendar months from the time when the said Act shall come into operation in that part of India, without being admitted or enrolled, or having previously obtained a stamped certificate in pursuance of the said Act in the same manner as if such Act had not been passed.

High Court may permit person entitled, without examination, to a certificate authorizing him to practise as a Pleader in the Courts mentioned in Act No. XX of 1865, Section 10 Clause (*c*), to practise in Small Cause Courts.

4. Whenever the High Court shall cause a certificate, whether original or renewed, authorizing the holder to practise as a Pleader in the Courts mentioned in Clause (*c*) of Section 10 of the said Act, to be issued to a person entitled, under the proviso in Section 5 of the same Act, to be admitted and enrolled as a Pleader in the High Court without passing any examination, the Court may in such certificate authorize the holder to practise as a Pleader in Small Cause Courts in addition to the Courts mentioned in the said Clause (*c*), and he shall thereupon be entitled to practise as last aforesaid, subject to the conditions contained in the said Act as to the duration of and stamp on a certificate authorizing the holder to practise as a Pleader in the Courts mentioned in the said Clause (*c*).

Interpretation Clause.

5. In the construction of this Act and of the said Act No. XX of 1865, the expression 'Office subordinate to such Board' and, in the construction of the latter Act, the expression 'Revenue Office,' shall be taken to apply to Collectors and Deputy Collectors trying suits under Act No. X of 1859 (*to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal*).

This Act to be taken as part of Act No. XX of 1865.

6. This Act shall be read with and taken as part of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865."

Military Orphan Press.—No. 56, L. C.—3-1-66-2000.

ACT No. XXX of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd December, 1865.)

An Act to define and sanction the rates which the Madras Irrigation and Canal Company is authorized to charge for the supply of water for purposes other than that of Irrigation.

Preamble.

WHEREAS, by an Indenture made on the third day of June, one thousand eight hundred and sixty-three, between the Secretary of State in Council of the one part, and the Madras Irrigation and Canal Company of the other part, it was amongst other things provided that the Company should be authorized and empowered to charge such rates for the supply of water generally, except the supply for the purposes of Irrigation, as should not exceed the rates which should "be defined by an Act of Parliament of the Indian Legislature," and should not in any case charge any higher rates whatsoever. And whereas it is expedient to fix the rates which the said Company may charge for the said purpose; It is enacted as follows:—

Rate which Company may charge for water supplied for purposes other than Irrigation.

1. The Madras Irrigation and Canal Company may charge for the supply of water generally, except the supply for the purposes of Irrigation, a rate not exceeding the sum of one Rupee for four hundred cubic yards of water.

Commencement of Act.

2. This Act shall come into force on the first day of January, 1866.

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